

INLAND WETLANDS AND WATERCOURSES AGENCY ANNUAL REPORT

FISCAL YEAR 2012 - 2013

**INLAND WETLANDS & WATERCOURSES AGENCY**

	<u>2012-13</u>	<u>2011-12</u>	<u>2010-11</u>
Budgeted Personnel:	6.5	6.5	6.5
Expenditures:			
Current	\$476,006	\$470,743	\$448,272
Capital	\$0	\$0	\$0
<b>Total:</b>	<b><u>\$476,006</u></b>	<b><u>\$470,743</u></b>	<b><u>\$448,272</u></b>
Revenue:	\$488,956	\$425,563	\$375,786

The Inland Wetlands and Watercourses Agency (hereafter referred to as “the Agency”) is a regulatory authority comprised of seven members and three alternates, each appointed by the Representative Town Meeting upon nomination by the Board of Selectmen. The Agency acts by authorization and requirement of Connecticut General Statutes and local ordinance, adopted on October 9, 1973. Through the orderly application of the permit process, the Agency advances its mission to protect, preserve and enhance the functional value of our Town’s lakes, ponds, streams, swamps, and marshes that serve as a vital resource to the recharge and purification of our surface water, ground water, and the attenuation of storm events.

The day-to-day operation of the Agency continues to be managed by the Agency Director, Michael Chambers, and is assisted with the supervision of staff by Robert Clausi, the Agency Senior Wetlands Analyst. Agency operations are carried out by six full-time staff members (four professional and two administrative), one full-time professional shared with the Conservation Commission, one full-time professional shared among the three Land Use Departments (the Agency, the Conservation Commission, and Planning and Zoning), one permanent part-time support staff and one permanent part-time receptionist (who is also shared amongst the three Land Use Departments). Respectively, these positions are as follows: Wetlands Agency Director, Senior Inland Wetlands Analyst, Wetlands Compliance Officer, Assistant Wetlands Compliance Officer, Administrative Accounting Clerk, Administrative Staff Assistant II, Environmental Analyst, Applications Coordinator, permanent part-time Administrative Staff Assistant II, and permanent part-time Administrative Assistant I. The department maintains operating hours Monday thru Friday from 8:00-3:30 pm with technical members of the staff made available for questions every day from 9–1 pm.

For the sixth consecutive year, the chairmanship of the Agency was assumed by Lawrence Perry. With remaining positions of leadership rounded out by Vice Chairman Brian Harris (2009) and Secretary Elliot Benton (2008). Seated members included Lawrence Perry (1999-), John Conte (2004-2013), William Galvin (2005), Stephan Skoufalos (2006), Elliot Benton, Brian Harris, James Carr (2010), Joseph Rogers (2009). These members were joined by Agency alternates Norma Kerlin (2012), Scott Salisbury (2012) and the most recent addition, Jay Schoendorf (2013). While Mr. Perry had previously announced his intention to decline a new term, the unforeseen loss of at least one senior member of the Agency lead to a decision to postpone his departure. Regrettably Mr. Perry’s reappointment to the Agency was not moved by the Board of Selectmen; however, Mr. Perry has continued to serve in his capacity as the Agency Chairman until a replacement has been named and appointed by The Representative Town Meeting. As the longest-serving member of the Agency,

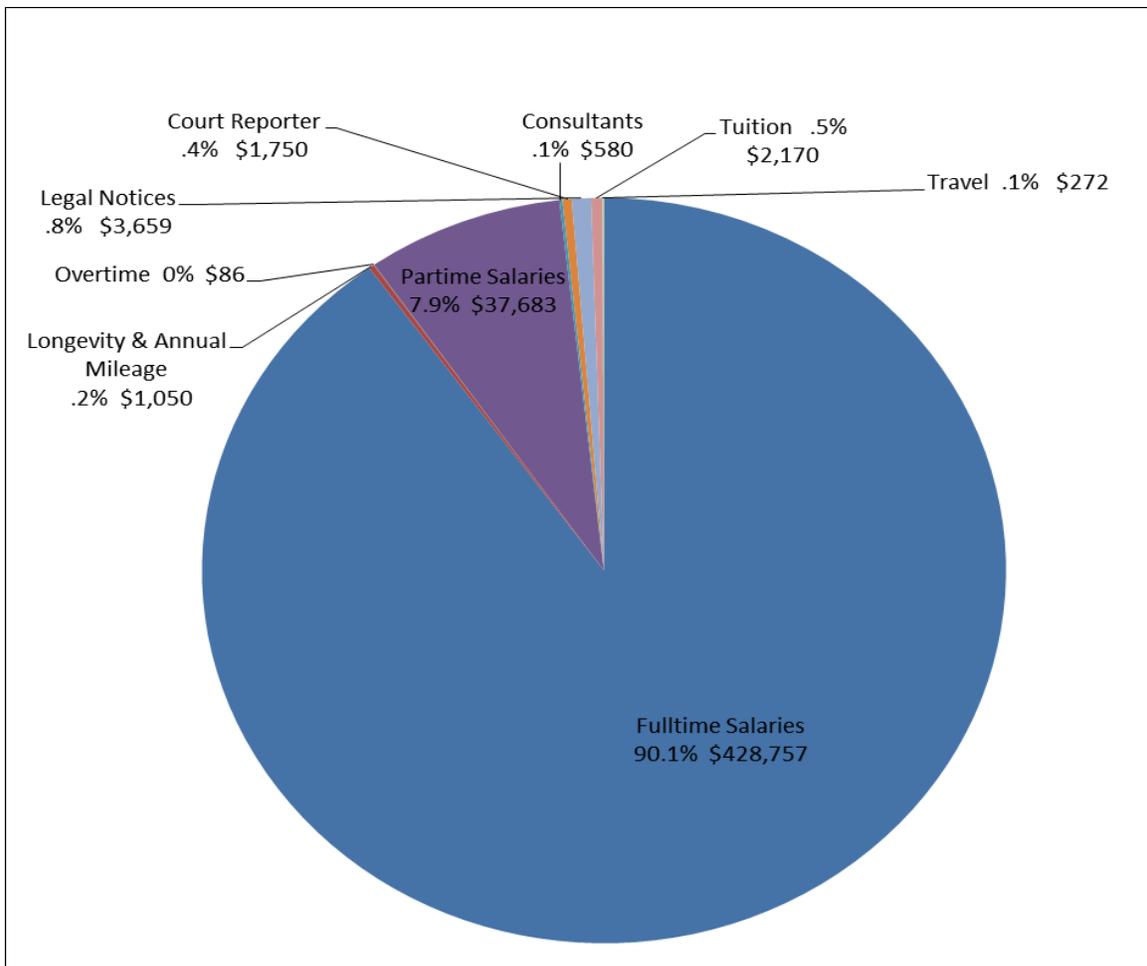
Mr. Perry’s absence continues a concerning trend of losing at least one skilled senior member per year for the past ten years. With the loss of institutional knowledge and professional expertise in land use practices comes a greater reliance on outside consultants which is reflected in the Agency’s budget. Therefore, the Agency was pleased to welcome alternate members with seasoned legal experience and a second alternate member with proven knowledge of engineering practices to its ranks. Similar addition of skilled professionals is necessary to

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continue the department's outstanding legal history, while reducing dependence on costs associated with private consultants that are otherwise required to fulfill the experience lost due to retirement and/or nonreappointment.

The Agency's municipal role includes the review and analysis of development-related activities that introduce potential wetland and watercourse impacts. At the forefront of every review is the need to protect these valuable resources from the unnecessary and unregulated uses that present deleterious effect on otherwise viable systems that exist in the interest of our communities. Assisting with this effort is the Agency staff that is trained to concentrate effort on the issuance of permits, oversight of permit conditions, and enforcement of non-permitted activities that have presented environmental and stormwater effects on wetland and watercourse resources. Staff responsibilities also include routine comment to the Planning and Zoning Department on subdivision applications, as well as field assistance and technical guidance to other Town departments, when necessary.

Figure I. - Agency Operations Budget for FY 2012-2013:



Each year the Agency is presented with scores of applications, all of which provide a disparate development challenges that require Agency Members and its staff to carefully consider alternatives aimed at minimizing pressures placed on the subject property and its surrounding community. In most cases, the business of the Agency is rather pedestrian, garnering little community attention or public interest; however, this unfortunately does not always prove to be the case. In FY `12-13, the Agency encountered several projects which required the expertise of its staff, and in several cases the full weight of its regulations and enforcement powers in order to correct impacts introduced to wetland and watercourse systems.

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The Thru-way Shopping Center in Riverside, CT is busy a commercial hub that appears to operate well-removed from the nearest wetland or watercourse area, so it came as a great surprise to the Agency staff when they were alerted by the Department of Public Works Sewer Officials that a sewage spill traced back to the center had contaminated an extended run of Cider Mill Brook. What followed next was a methodical multidepartment effort aimed at correcting the discharge in the field, while abating the obvious health and quality of life hazards placed on residents along the waterway. Working in conjunction with Sewer Officials and representatives from the Department of Health, the Agency set out to oversee the immediate emergency repair of the sewer line and the removal of suspended solids within a designated section of the watershed. Unfortunately, the Agency was forced to act once it became apparent that delays attributed to cost considerations were placed ahead of necessary water quality testing and requisite clean up. With thanks to the RTM adoption of the Municipal Fine Ordinance in 2007, the Agency able to persuade compliance under threat of penalties of up to \$1,000 per day for each day the violation was allowed to exist unabated. Although threat of enforcement action is never the preferred method taken by the Agency, the ability to immediately sanction parties found responsible for willful offenses resulting in impact to wetland and watercourse systems has proven to be an effective measure for protecting environs and the communities they effect.

FY `12-13 also marks the first time the Agency began requiring residents to submit an application for the chemical treatment of pesticides and herbicides in local watercourse systems. The requirement followed the approval of a Public Act in 2008 that enabled local Inland Wetlands Agencies to require local permits for applying State licensed pesticide and herbicides. This enabling legislation for the first time provided local authorities the ability to permit and monitor chemical treatment projects within a pond. The unique aspect of this parallel approval process expressly prohibited Agencies from altering the type of pesticide licensed by the Department of Energy and Environmental Protection (DEEP) or result in the unilateral denial of an Aquatic Pesticide Permit issued by the DEEP on the chemical treatments of ponds.

In 2012, Notice of the Agency's intent to begin the review of treatment sites were issued to holders of State Permits identified to have pond systems that were likely to suffer material adverse effect due to the use of the harmful applications. Predictable resistance to the local review process was immediately voiced by licensed applicators and residents, while similar disappointment was shared amongst the environmental activist community who strongly objected to the Agency's failure to require natural alternatives to the use of toxic pesticides. Regardless, the Agency is pleased to be out front of the State in the review of these applications and reports only 13 permits were issued during the first 6 months of 2013. The Agency looks forward to educating the community to the many alternatives that can be substituted for the use of harmful toxins. In the interim, Staff will continue to monitor these sites and establish baseline information that will be shared with local legislators in defense of the departments fight for a more worthwhile voice in regulating this activity

The routine business of the Agency was carried out during twelve regularly scheduled meetings. The Agency also scheduled three Public Hearings reserved for activities with increased public interest and/or potential for significant impact to wetlands and watercourses. These Hearing concerned resolution of a violation associated with the unauthorized clearing and grading of a wetland and its adjacent area as well as two Hearings to consider the development of a single-family residence which included activities that would result in direct impacts to flagged wetland areas. In FY 2012-2013, the Agency experienced a noticeable recovery in the total number of applications acted upon. The Agency was pleased these closing totals contradicted flat mid-year projections, providing an uptick in applications reflecting positively in the Agency's revenue sheet that now depicts a surplus for the first time since FY `05-06.

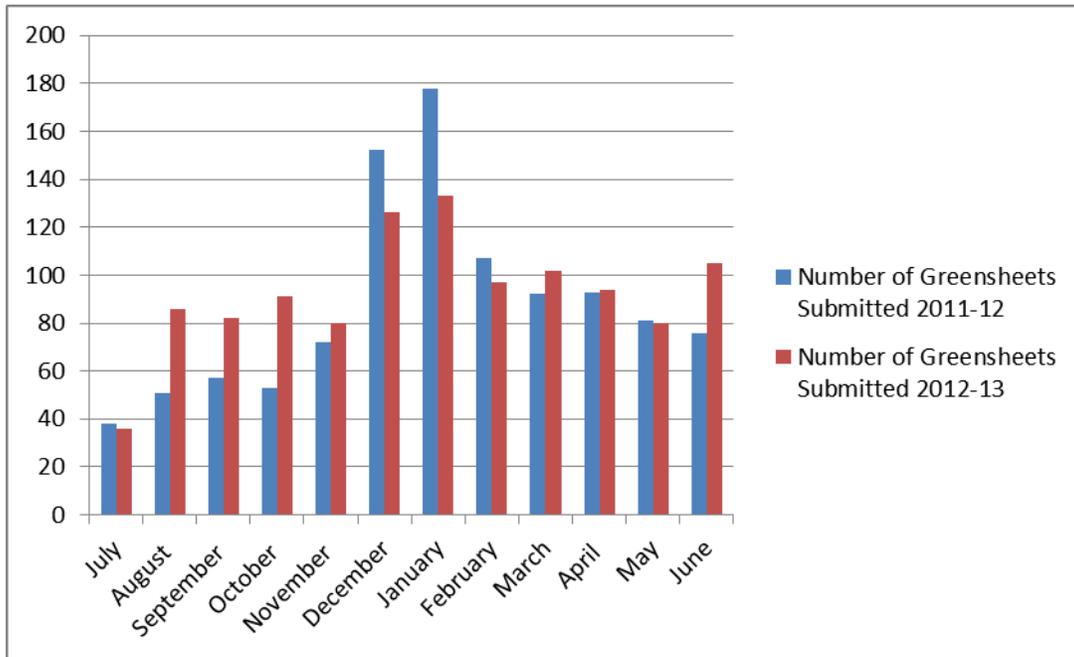
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Table I - Application totals for the period beginning July 1, 2012 thru June 30, 2013:

New Permits	Modifications	Denials	Agent Approvals	Letters of Permission	Bond Releases	Conceptual Approvals	Orders to Correct
163	24	1	23	2	127	2	19

Operation totals further include figures associated with the Agency’s review of greensheet questionnaires. These questionnaires alert the department to activities on all properties in Town, thereby providing Agency staff the opportunity to assess a prospective projects potential and/or likely impact to areas containing wetland and watercourses. In FY `12-13, staff processed 1,115 greensheets. That total included 324 sites with confirmed wetlands or watercourse areas on the subject property, of which only 33 projects were determined to include activities that presented potential or likely impacts on wetlands and watercourses. These figures are not only consistent with the prior year totals but also maintain historic averages, thus debunking common misconception that the Agency has adjusted its operations either in favor or against development within the Town borders.

Table II. – Agency Greensheet Submission totals for FY 2012-2013:



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Table II – Total Number of Walk-In Visits

<b>2012 -2013 Counter Visits</b>			
<b><u>2012</u></b>		<b><u>2013</u></b>	
July	162	July	167
August	196	August	216
September	196	September	226
October	164	October	226
November	203	November	187
December	202	December	188
January	202	January	203
February	184	February	213
March	263	March	232
April	208	April	312
May	199	May	318
June	201	June	232
<b>TOTAL:</b>	<b>2,380</b>	<b>TOTAL:</b>	<b>2,720</b>

In 2008, the Agency witnessed a series of losses resulting from the national recession. With these losses came a dramatic decline in applications and ultimately a decision to stand as the only land use department tasked with the eliminating a permanent part-time position. In response, the Agency began steps to scrutinize its operations so as to reduce its financial dependence on the general tax base. Over the many months that followed, great effort has been taken to present an operations budget to the Town Board of Estimate and Taxation that is matched in whole by revenue collected from residents utilizing the services of the Agency. Throughout this period of time, responsible adjustments have been introduced to accomplish the end goal, which on two separate occasions were offset by Public Acts that countered the Agency’s fiscal efforts. The Agency has been encouraged by its reduced dependence of the Town general fund to cover operational expenses, and is therefore pleased to report that our commitment to the initiative has finally produced that desired result.

The Agency attributes gains experienced during FY `12-13 to three areas of revenue; the first being the return of extension fees which had all but been suspended by act of the State legislature. The Act provided all permits issued following May 2006 – May 2011 to be valid for a period of not less than nine-years and not more than fourteen-years. Since the Agency had only acted in 2008 to require permits renewable after two years as opposed to five years, that meant the department would be forced to monitor active applications and construction projects without collecting fees associated with the extension of their Permits. With the return of Extensions Fees, the Agency has again begun the collection of a very important source of revenue.

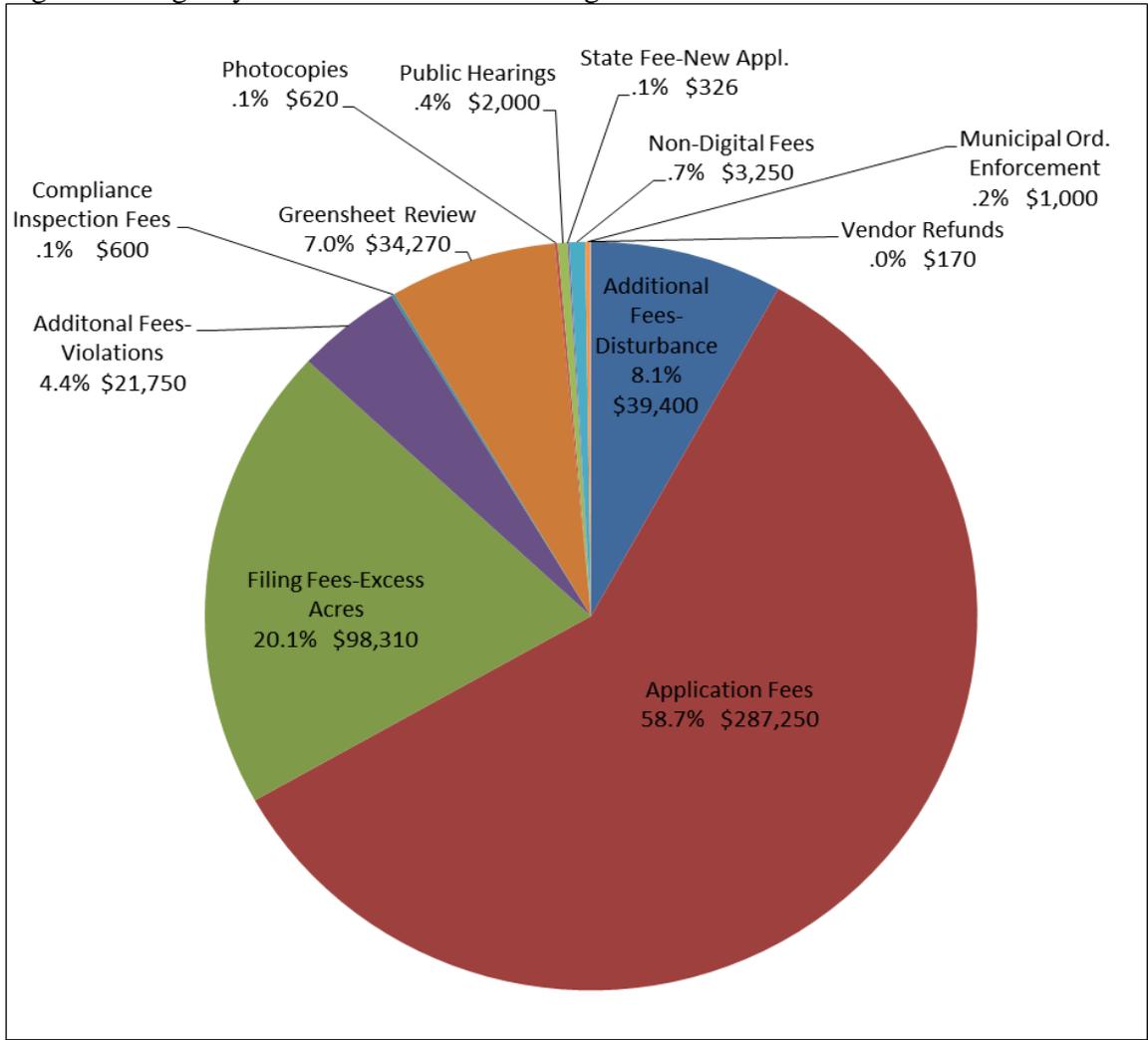
The collection of fees associated with the review of greensheet questionnaires is another significant adjustment responsible for the Agency’s financial gains. The decision to require such fees followed a significant rise in the number of questionnaires being processed by the department. After tracking the sustained increase, it was

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decided that the amount of staff time dedicated to the review and sometimes inspection of these prospective projects required costs to justify staff hours and use of Town vehicles. The fee requiring the submission of \$30 for projects reviewed in the office and \$65 for the review of questionnaires requiring a field visit from staff, has been in place since May 2012. While early projections suggested a modest \$16,000 in increased revenue, the Agency realized an end of year total of \$34,270, a total nearly double the original estimate.

Finally, it appears the lull in the development of parcels including and/or abutting wetlands has returned. End of year totals for the two previous fiscal years reported applications numbers that plummeted to lows not seen since the early 1980's. It now appears that the improved financial climate has had a direct impact on the rise of applications presented to the Agency. The Agency will continue to monitor its finances and make adjustments when necessary to ensure dollars received are sufficient enough to offset operational expenses.

Figure II – Agency Sources of Revenue during FY 2012-2013:



Despite financial challenges, the Agency consistently maintained the most critical component of operations: the Compliance Program. The department continues to successfully administer a program that ensures regular routine inspections preclude or correct hardships created by development. Compliance Staff issued 28 Stop Work Orders, and 44 Cease and Correct Actions, resulting in \$21,750 of additional fees. During this same period, a total of 127 projects were closed, allowing for the release of \$656,500 in cash performance bonds.

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Table III – Stop Work Orders

STOP WORK ORDER 2012-13	
July	5
August	2
September	4
October	1
November	5
December	1
January	1
February	1
March	2
April	2
May	3
June	1

One crowning accomplishment of the Agency is the ongoing document conversion program. This program carries forward an ongoing effort to transfer paper, microfilm, and microfiche files to a digital format. The program, which continues to evolve, introducing a computer kiosk for the public in the Agency office as well as creating a web portal as laudable advances during FY `12-13. These publicly accessible files contain full records for project years 1974-2003, with a plan to continue to ensuing project year per annum. Additionally, the Agency is currently working with its vendor to improve the search function available through the web portal to mimic capabilities provided by kiosk users in the office. Until such time, the Agency apologizes for the limitations of the system, but was encouraged to learn and report that a fix is forthcoming. Home users interested in accessing office records are directed to the following world wide web address:

<http://65.51.94.134/publicaccess/>

After completing a customer survey in 2010, it became clear that applicants and interested residents felt disconnected from the evening deliberations due to the Town Hall Meeting Rooms layout and typical poster board presentations excluded others from closely following. In response, the Agency explored a number of options, and ultimately selected to use audio/visual connections to project maps and relevant schematics being considered by the Agency. Today the Agency stands as the only Independent Commission conducting its business in a totally digital format, thus allowing all in attendance to participate in the evening discussion. The Agency looks forward to improving the existing format as viable alternatives that improve information accessibility become available.

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***Performance Outcomes:***

The Agency strives to implement the following goals and objectives in protecting the Town's inland wetland and watercourse resources:

1. Promote smart growth and low impact development concepts to minimize the often irreversible effects of development on a parcel and surrounding neighborhoods.
2. Minimize site and community hardships created by the improper management of stormwater and erosion control measures by improving and expanding upon the Agency compliance program and its oversight of active development project.
3. Provide technical staff assistance to other regulatory departments of the Town in matters requiring expertise in the implementation of sedimentation and erosion control practices and drainage abatement practices.
4. Strengthen community awareness of both the importance of wetlands and watercourses in our neighborhoods and the Agency's regulatory process through education, training, media and similar outreach efforts.
5. Maintain a working partnership with Community Groups and Neighborhood Associations.
6. Reduce incidences of noncompliance and development-related environmental hardships through education and community outreach.

***Litigation:***

- 1) 295 North Street – Stephan and Bobbi Feder – Appeal of IWWA Conditions - Settled
- 2) Aleksandra Moch v. Town of Greenwich – CHRO – Pending
- 3) Aleksandra Moch v. Town of Greenwich – Federal Civil Rights Claim – Pending
- 4) 148 Glenville Rd. - Indian Springs Land Co. v Town of Greenwich – Superior Court judgment for Town of Greenwich – Appellate Court – Pending
- 5) 148 Glenville Road - Weld v Town of Greenwich – Judgment for Town of Greenwich
- 6) 148 Glenville Road - Goodfriend v Town of Greenwich – Judgment for Town of Greenwich

**Pending Enforcement Actions:**

- 1) 21 Birch Lane – Town of Greenwich v Thomas McCloskey - Pending
- 2) 27 Vineyard Lane, Town of Greenwich v 27 Vineyard Lane LLC – Foreclosure - Pending
- 3) 1093 King Street – Town of Greenwich v Geneieve Salvatore, Trustee - Pending
- 4) 0 Taconic Road – Town of Greenwich v Greenwich Back Country Land Trust Inc.– Pending
- 5) 29 Byfield Lane – John Tsoi – Enforcement Action – Foreclosure - Pending
- 6) 457 Taconic Road – Town of Greenwich v Mary Kate O'Neill - Pending
- 7) 325 Riversville Road - George Mead – Pending
- 8) 30 Riversville Road – Town of Greenwich v J.C. Merz - Pending

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General information about the Agency is available on the Town of Greenwich web page: [www.greenwichct.org/inlandwetlands.htm](http://www.greenwichct.org/inlandwetlands.htm). Information available includes a meeting schedule with deadlines, office hours, a list of staff and Agency members, ways to contact the Agency, meeting agendas, application forms, Regulations, and minutes.

Agency members and staff continue to take specific actions, recommend, and implement changes in policies and practices to enhance the protection of the Town's water resources, while ensuring fair and courteous review of applications. The Agency strives to enhance the environmental quality of the Town for its residents by protecting and preserving its inland wetland and watercourses through the fair and balanced application of appropriate regulations, and searching for prudent and feasible alternatives to any proposal which are likely to cause material impact to wetlands and waterways without unduly impacting the quiet enjoyment of private and public properties.

**Agency members and term expiration dates:**

Lawrence Perry, Chairman - Expired  
Brian Harris, Vice Chairman - 3/31/16  
Elliot Benton - 3/31/17 - Secretary  
Jim Carr – 3/31/16  
William Galvin - 3/31/16  
Stephan Skoufalos - 3/31/17  
Joseph Rogers – 3/31/17

**Alternates:**

Norma Kerlin – 3/31/16  
Scott Salisbury – 3/31/17  
Jay Schoendorf – 3/31/17

Lawrence Perry  
Agency Chairman

Michael N. Chambers  
Agency Director