

Connecticut River Compact

In probably the nation's first such regional conservation agreement, eight Connecticut towns have joined hands to protect the banks of the river through local control backed by the state.

By Ellsworth S. Grant
August, 1975

Almost every one these days talks about better land use – planners, garden clubbers, elected officials, farmers, foresters, environmentalists, even some businessmen and developers. But very few are doing anything about it. On the national level, Congress has been trying since 1971 to pass a bill to stimulate land-use planning by states, but passage this year is unlikely because of its \$500 million price tag. In turn, the states have generally dodged the highly sensitive issue of comprehensive planning of their natural resources.

Delegates to a conference on land-use planning held in Woodstock, Vermont last April, found that New England has come off little better than the rest of the country. As elsewhere, the history of land development from Connecticut to Maine has been one of maximizing profit and minimizing the environment. The responsibility for regulating land use is everybody's and nobody's, there being no coordinated approach to preserving resources while pursuing better living conditions for people. A major need, the conference agreed, is for each state to adopt a framework for land-use decisions that balances local concerns and rights with regional or statewide needs and policies. They also stressed the importance of public participation at all levels and in every conceivable manner.

Connecticut, although it has been in the forefront of adopting legislation to abate air and water pollution and to protect its coastal and inland wetlands, has so far refused to face up to the one remaining major environmental dilemma – the most challenging of all – the need to balance the conflicting forces of growth and preservation.

In January, 1973, as the first step toward correcting this deficiency, the state did produce a "Plan of Conservation and Development." Based on geological and hydrological surveys, this plan divides Connecticut into three land-use categories – permanent open space, suitable for limited development and suitable for urban development. Recognizing that land-use decisions have historically been the prerogative of local planning and zoning commissions, it calls for a partnership between the state and its 169 towns. However, the specter of statewide zoning killed the bill in the 1974 session of the General Assembly.

Yet the year before the same Republican-controlled Assembly passed an historic piece of land use legislation entitled, "An Act Concerning the Preservation of the Lower Connecticut River." This law provided for the creation of what is probably the country's first regional conservation compact under which the participating towns retain control, while the state backs them up through acquisition of scenic easements and development rights. The boundaries of the conservation zone were carefully, defined, and a step-by-step process was set up for bringing into being an administrative body known as the Connecticut River Gateway Commission.

It is well named, because for over 200 years the mouth of the Connecticut River served as the entrance to the interior of New England, a natural highway to western Massachusetts, New Hampshire and Vermont for settlers and traders. Today, the estuary is the last one of major size on the eastern seaboard which remains unspoiled. For a stretch of 20 miles it combines the beauty of salty marshes and rocky, wooded headlands with the charm of old farmhouses and villages that have changed little since the 18th century.

In the past eight years great strides have been made in cleaning up what used to be called "*the most beautifully landscaped cesspool in the world.*" From Hartford down millions of dollars have been spent on improving municipal waste treatment facilities. The Connecticut River Watershed Council estimates that it is one-third cleaner. Officially, the Connecticut portion of the river is still classified as having "C" water quality, but Murray Hufner, assistant director of water compliance for the Department of Environmental Protection (DEP), promises that it will be declared suitable for all recreational uses by November, 1976.

There are eight towns in this region with a total population of 38,000 spread over 226 square miles: Haddam, East Haddam, Chester, Lyme, Deep River, Essex, Old Saybrook and Old Lyme. Only a small fraction of the area is devoted to

residential or other development, yet with the completion of the Connecticut thruway (I-95) and Route 9 to Middletown there has been considerable in-migration during the past decade, especially in Old Saybrook and other towns on the west side of the river.

Old Saybrook is the commercial center, Essex the largest employer and a choice retirement spot for the well-to-do, while Haddam and East Haddam claim the lowest population density by virtue of having nearly half of the land area. This is still town-meeting country, each township being run by an elected three-man board of selectmen.

The "gateway" to the Connecticut River is not only unique in its scenic delights but offers a rich heritage. It was discovered in 1614 by the Dutch explorer Adrian Block and first settled in 1635. John Winthrop, as agent for a group of puritan adventurers operating under the authority of the ambiguous Warwick Patent, dispatched a small advance force under the command of Lt. Edward Gibbons to seize control of Saybrook Point. These English lords and gentlemen, fearful of royal persecution after Cromwell's rule, intended to establish a manorial community to which they could flee in safety.

The following March the engineer Lion Gardiner arrived from Boston to build a fort to fend off rival Dutch traders and hostile Indians. But only one of the Warwick patentees, George Fenwick, made it to Saybrook, and in 1644 he sold all of the land (which then included the future towns of Old Saybrook, Westbrook, Essex, Lyme, Old Lyme, Chester and Deep River) to the Connecticut Colony centered in Harford, Windsor and Wethersfield.

No part of the original fort remains, but within its perimeter stands a statue of Lion Gardiner. Essex enjoys the best anchorage for pleasure craft on the river. In colonial days, when it was known as the port of Saybrook, it bustled with shipyards and a rope-walk. A total of 500 ships came from Essex. Here, Captain Uriah Hayden built the Oliver Cromwell and the *Defence* for Connecticut's Navy during the Revolution. Here, the British Fleet boldly advanced during the War of 1812 and destroyed 28 vessels. Later came the mighty steamboats belching smoke and blowing their whistles as they carried passengers and freight from Hartford to New York and return until 1931.

Last year, under the stimulus of the Essex Bicentennial Commission, the old steamboat dock was saved from extinction by a fund-raising campaign and is now being converted into a living museum to celebrate the steamboat era. Eleven miles upstream the Goodspeed Opera House, built in 1876, has already been restored and offers an all-year-round program of lectures and musicals. The Gilston House next door and the entire village of East Haddam have shared in this rebirth. Another landmark between Essex and East Haddam is Gillette Castle State Park, the former house of the long-time portrayer of Sherlock Holmes on the American stage. Like a Medieval relic from the Rhine, William Gillette's stone edifice is perched high on a bluff in Hadlyme.

The State of Connecticut already owns substantial acreage along the river estuary, primarily tidal marshes, a few river islands, and eight parks, some with boat-launching facilities. Cockaponsett State Forest in Haddam covers 15,000 acres and has 12 camping sites. Boating is the major recreational activity. There are numerous private marinas, boatyards and yacht clubs. North Cove in Old Saybrook has been dredged by the Army Corps of Engineers to provide an anchorage for over 100 boats. The most exciting happening in recent years was the return of steam trains. The Valley Railroad runs excursion trips from Essex to Deep River, with the option of returning by boat. Its popularity is attested to by its showing a handsome profit last year, the envy of most railroads in the Northeast.

To understand how the Gateway Commission came about, one must go back to the rediscovery of the Connecticut River in the early 1960's. For nearly a hundred years it had been in a steady decline, suffering from abuse and neglect, except for the oil barges and tankers which plied it daily. Pollution was then a new word, its elimination soon to become a national crusade.

On December 2, 1963, the U.S. Secretary of Health, Education and Welfare held a milestone conference in Harford on the pollution of the river within the states of Massachusetts and Connecticut, at which numerous government officials, water experts and citizen groups testified. The lead-off witness was Senator Abraham A. Ribicoff who, as HEW secretary himself in 1961, had supported the first national program for water pollution control. *"Stretches of this once proud*

river," the senator said in 1963, "now bear as its official classification: 'Suitable for transportation of industrial wastes without nuisance and for power, navigation and certain industrial uses.'"

This conference marked the beginning of his state's monumental effort to clean up the river and the other major streams within Connecticut. Gov. John Dempsey appointed a Clean Water Task Force in 1966, whose report led to the almost unanimous adoption of the model Clean Water Act of 1967. This set in motion a seven-year, seven-step program of pollution abatement undergirded by a \$250 million bond issue.

Sen. Ribicoff's interest in the river did not abate. In September, 1965, he conducted the then Secretary of the Interior, Stewart L. Udall, on an inspection tour by boat. It turned out to be a rainy day, but Secretary Udall commented afterwards: "We have a chance here to do a model job of conservation." The following year, Congress authorized the secretary to study "the feasibility of establishing all or parts of the Connecticut River Valley from its source to its mouth... as a ... National Recreation Area." For this purpose it appropriated \$100,000.

Secretary Udall turned the job over to the Bureau of Outdoor Recreation (BOR), which released its findings and recommendations in July, 1968, in an attractive report entitled "New England Heritage." The Bureau urged the establishment of a 56,700 acre national park to cost \$57 million and to serve, it said, "as the nucleus of a revitalized conservation and recreation program for the entire river valley." The area was divided into three separate units, one on the upper reaches of the river between the White and Green Mountains, the second in the Mount Holyoke Range near Northampton and the third in the estuary.

The Gateway Unit would take in 23,500 acres of river frontage and adjacent uplands. BOR proposed that the federal government acquire in fee a total of 4,100 acres and the state donate another 1,900 acres. The remainder, all privately owned, would be protected within a conservation zone, whereby local zoning that met standards prescribed by the Secretary of the Interior or would shield it from incompatible uses. The conservation zone concept, BOR noted, was already in effect at the Cape Cod and Fire Island National Seashores and had proved "an effective method of allowing continued commercial and residential use of an area while perpetuating its scenic and historic character."

Publication of "New England Heritage" was front page news in valley newspapers and sparked a spirited dialogue, pro and con, among environmentalists and government officials. New Hampshire and Vermont were decidedly negative. The leading spokesman for the valley, the Watershed Council, took the position that a National Recreation Area was not the appropriate or most practical mechanism. "The 400-mile extent of the valley would make federal administration... in the form of a national park extremely costly," the Council stated. Instead, it's directors recommended the formation of an interstate recreation compact with federal participation, to be administered by the New England River Basins Commission.

Focusing on the Gateway Unit, Sen. Ribicoff asked Joseph N. Gill, then state commissioner of agriculture and natural resources (and now serving as commissioner of environmental protection), to appoint an ad hoc committee of officials and citizens living in the region. Gregory Curtis, retired agricultural extension agent for Middlesex County, became the chairman and William G. Moore of Lyme, vice chairman. These two men were to be the human dynamos throughout the tortuous process that led finally to the Gateway Commission. Without them it is safe to say nothing would have happened.

A marketing research expert, Bill Moore had recently moved to Lyme from Greenwich and almost at once became active in local politics. In 1968-70 he represented the 20th District in the state Senate, a district that covers four of the eight towns. More than any other dedicated environmentalist, Moore is both a tireless organizational volunteer and a canny practical politician, a rare winning combination. After leaving the Senate, he founded the Environmental Action Fund, a statewide lobbying group that publishes a trenchant newsletter and keeps close watch on environmental legislation and enforcement. He is also the chairman of the State Board of Mental Health.

Over a period of 3½ years members of the Gateway Committee devoted themselves to appraising the many issues involved and to keeping an open line of communication with not only the eight towns by with the state and federal officials. Their reactions to the New England Heritage report boiled down to two major concerns: (1) adequate controls and safeguards to preserve the "unique values" which local residents wanted untouched and which the BOR wanted to

share with tourists; and (2) a strong valley voice in determining the boundaries, standards and policies of the proposed park.

Three times Moore testified in Washington before former Sen. Alan Bible's subcommittee on Parks and Recreation and to help Sen. Ribicoff's staff draft a bill. Twice the Senate enacted enabling legislation, in 1970 and 1971, for what was now called the Connecticut Historic Riverway. Bible insisted that the second bill lean toward greater local control but it was not enough to satisfy the Gateway Committee. Aware of that mounting opposition at home, Moore, in a somewhat Machiavellian ploy, enlisted the support of former 2nd District Congressman Robert Steele as an anchor to windward. He persuaded Steele to introduce a bill that gave even more power to the Gateway Committee and, equally important, to adopt a show-me-that-the-people-want-it attitude. The House took no action.

The role of the National Park Service (NPS) did more to influence the eventual outcome than any other single factor. They tend to equate park with people, the more the better. In this situation they demonstrated an incredible ignorance of local conditions. Just before Sen. Bible's committee was to visit the Gateway area as Sen. Ribicoff's guests, a NPS task force met in a Connecticut motel and hastily drew up a plan for the full scale park facility including access roads, reception centers, camp-sites and picnic grounds. The Gateway Committee was aghast. Angered and dismayed, Moore feared that matters were getting out of hand.

Even Sen. Ribicoff was embarrassed on the boat trip from Old Saybrook to East Haddam in May, 1970, when former NPS Director George Hertzog revealed to the public the Park Service's concept of what it would do for (and to) the estuary. His presentation was admittedly modified by his previous confrontation with the Gateway Committee but nonetheless alarmed the various town representatives. Sen. Ribicoff publicly denounced it. Furthermore, until early 1972 the NPS resisted the idea of sharing any responsibility with a local committee that would be more than advisory in function.

The first signs of organized opposition came from Lyme. Residents feared that roads would be inundated with recreationists. A national park, they complained, "will result in a trail of empty beer cans, litter, and other trash." They also doubted whether any federal legislation would grant real power to a local committee. Proponents argued that the choice was either a park or private development, and Sen. Ribicoff claimed his mail was running eight to one in favor of a national park. A town-wide referendum settled the debate in April, 1971 by a vote of 415 against and 158 for.

During 1972 and the following year the Gateway Committee conducted a continuous series of meetings in the Valley. (Altogether, Bill Moore says there were 259 sessions in its five-year existence, 100 of them for the public.) In August of 1972 the Gateway Committee issued its report. Over 6,000 copies were distributed. The \$23 million plan set forth was Bill Moore's attempt to present a solution that might work, that might be palatable to the voters, one that called for a modified national park with maximum local control. It presented potential advantages and risks – a near doubling of visitors, more traffic, [and] federal dominance. It points out that the prospect of getting the towns to act together without federal participation held but a slim chance of success. Moore's ace in the hole was a commitment from Sen. Ribicoff that he would do nothing without local concurrence.

Now the fat was in the fire. Moore found himself uncomfortably in the middle between Sen. Ribicoff vocal opponents in the eight towns. Attorney Robert B. Fiske of Lyme was especially convincing with his attack on the conflict between preservation and recreation in many national parks. At one public meeting an angry woman spat in Moore's face, his home was threatened, and for six months his life was hell. It became obvious to him that on the one hand town support was minimal, while on the other the BOR and Department of the Interior would never accept the plan because it did not provide sufficient public recreation. At this critical juncture Moore called upon Sen. Ribicoff to withdraw his bill, and the same day he drove to the Capitol in Hartford and sat down with his successor as state senator, Peter Cashman, to launch a new approach which they had been covertly framing for some time.

The result was the Cashman bill for establishing the Gateway Conservation Zone. It completely discarded the concepts of recreation and eminent domain. Drawn up with the assistance of the Connecticut River Estuary Regional Planning Agency (CRERPA), headed by Stanley V. Greimann, it provided that the zone would take effect only when five of the

eight potential member towns decided to join by voting favorably at town meeting. First, however, these steps were required to be taken within 90 days: (1) appointment of anew Gateway Committee with representation from each town, the two regional planning agencies and the Department of Environmental Protection (DEP); (2) public hearings; and (3) recommendations on land to be acquired the state in less than fee title. An additional 90 days was allowed for consideration by each town's planning, zoning and conservation agencies.

The minimum standards adopted for the Conservation Zone, which encompasses the river and the land as far back as the first ridge line, covered such matters as site plans, frontage and set-back requirements, building height and design, cutting of timber and burning of undergrowth, removal of soil, and the dumping of refuse.

On the whole the implementation process went well, although there was still opposition to overcome, especially from the former first selectman of Old Saybrook. His stated reason was the loss of local autonomy, but actually he was expressing fears of developers who saw no future for themselves. Favoring state control instead, the DEP commissioner at that time, Dan W. Lufkin, acted cool. Bill Moore, worried that Sen. Ribicoff's nose might be out of joint, persuaded him to attend the final hearing in Deep River. The Senator graciously said that his main concern was the River's preservation, not the method of achieving it.

One by one, four towns gave their consent. Old Saybrook was the fifth town to vote. As the date for its annual town meeting neared in May, 1974, the outlook was doubtful. By coincidence, a bombshell dropped: one day the press carried the announcement of a potential oil refinery for the Long Island Sound – Saybrook area. Moore takes no credit for this timing, but it served to swing Old Saybrook into the "aye" column and the Gateway Commission came into being.

The Cashman bill authorized a bond issue of \$5 million for acquiring up to 2,500 acres of scenic easements and development rights. Indicating its endorsement of the project, the BOR recently made a matching grant of \$500,000, which eventually may total \$2.5 million. The commission will determine which properties should have priority consideration. The public has yet to understand there will be no outright purchase of any land. For example, *the state may buy the right to subdivide*, but otherwise the property remains privately owned and still can be bought, sold, used, and developed within that limitation.

According to Theodore B. Bampton, deputy commissioner of Environmental Protection, this program will in no way infringe on the state's continuing to acquire open space in fee, as funds permit. Solidly behind the Gateway concept, Bampton cites it as the only project he knows of in the United States which is founded on the taking of development rights in order to preserve a common natural resource.

As chairman of the Gateway Commission, Moore hopes to complete the acquisition program within two years. He is even optimistic about exceeding the 2,500 acre limit through donations. Owners of key parcels are being urged to sell part of their property and to give the rest to the state as a means of minimizing their capital gains tax. Moore says he has convinced three owners to make gifts, one of 100 acres in the Town of Lyme.

Both Bampton and Moore believe the Conservation has application to other similar areas in the country. "*Of course,*" comments Ted Bampton, "*the problem was simplified in the Gateway Unit because pollution of the river and the Valley Railroad right-of-way along the west bank made it uneconomic to use for a hundred years, thereby keeping the area undeveloped by commercial and industrial interests.*" Moore says: "*I see no other pattern for land use; ours has been a democratic, step-by-step procedure. It's a lesson for the Vineyard; if they had gone about it our way, they would have something better than Sen. Kennedy's bill.*"

The adoption of the state-town compact for the Gateway Unit has, of course, killed the concept of a national recreation area for the rest of the Connecticut River. "We really pulled the rug out from under the Mt. Tom-Holoke people," bemoans Moore. Members of the Mt. Holyoke Unit advisory committee sat in on meetings of the Gateway Committee and cooperated closely with Moore and Curtis. They cannot expect federal assistance now and must find another solution.

As far as overall land use is concerned, Bill Moore wants the state legislature to adopt an improved version of the Plan of Conservation and Development and to set up a planning and review board. Its function would be to keep the plan up-to-date, to call attention to areas where local or regional plans may be in violation of state or federal laws, and to recommend how they can be made to conform.

"In one way or another," he philosophizes, "land use issues are being fought and debated in every town. We are surrounded by our past mistakes..... The people would like to have at least a set of rational guidelines to go by when we look to the future. State-wide zoning is as phony an issue as can be imagined..... But daily, in one town or another, someone on a governing board says something like this: 'This is not our responsibility... that is (or should be) the state's business.' We are forever trapped by our own ambivalence – we constantly try to have our cake (i.e., local responsibility) and eat it too (but only when the issues are simple and don't cost the town any money)."

From his experience Moore offers a prescription for creating a successful regional land use mechanism: *"First," he says, "you must have a resource like the Connecticut River, which in the public mind is a kind of 'motherhood' issue. Next, there must be a perceived threat, even a contrived one like a national park or a refinery. Thirdly, you have to organize a local group with political savvy who are willing to spend a hell of a lot of time and take a lot of abuse. Lastly, everyone involved must receive credit. In our situation there were no losers; everybody was a winner!"*

As a postscript Moore might well have quoted the distinguished economist, Kenneth E. Boulding, who views all planning with a jaundiced eye. *"The world," according to Prof. Boulding, "moves into the future as a result of decisions, not as a result of plans. Plans are significant only in so far as they affect decisions.... If (planning) is not a part of the total decision-making process, it is a bag of wind, a piece of paper, and worthless diagrams."*