



# The TRAILBLAZER

July 2006

Niagara Group of the Sierra Club

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## Audubon Rejects CWM Money

In its application to remove 1.5 acres of wetland to make room for future expansion, Chemical Waste Management was proposing a gift to Audubon for their proposed wildlife center.

Liz Kaszubski, Conservation Chair of the Buffalo Audubon Society, informs us that the Buffalo Audubon Society's board of directors passed a motion that should effectively remove the organization from the recent CWM wetland mitigation permit application proposal. This was the subject of a public notice by the US Army Corps of Engineers that was mentioned in an article in the Niagara Gazette last month.

A document pursuant to this board action will be sent to the Army Corps by Bill Hudson on behalf of Buffalo Audubon in the near future.

Congratulations to Audubon for taking a principled stand!

Bill Hudson, Director of Beaver Meadow Audubon Center, has stated that he will notify the Army Corps to remove Audubon as a potential recipient of mitigation funds on CWM's permit application. He hopes that people will consider helping them raise funds for the Birds of Prey Center.

Several more articles are available on our website.

Read more of the Trailblazer at  
<http://newyork.sierraclub.org/niagara>

## Niagara County Legislature Moves to Defend Waterways

The Sentinel reports that the Niagara County Legislature has passed a resolution to defend our waterways from toxic pollution.

It calls upon New York State to ensure that new hazardous waste facilities cannot release "persistent toxic discharges" into local waterways. It targets CWM in this resolution. *con't on pg. 2*

## Implementation of the Erie County Pesticide Neighbor Notification Law

With the arrival of warmer weather and consequently the onset of the pesticide spraying season, the Erie County Environmental Management Council (ECEMC) is reminding residents that they once again have the right to know when dangerous pesticides are sprayed near their homes. The New York State Pesticide Neighbor Notification Law went back into effect in Erie County beginning January 1, 2006, after a one-year hiatus in 2005. We need your help to ensure Erie County residents are aware of their rights under the Pesticide Neighbor Notification law.

More information on this subject is available on our website <http://newyork.sierraclub.org/niagara>.

## Progress in Amherst to Save Wetlands

by Larry Beahan

Today, May 19, 2006, Liz Kaszubski, Bob Ciesielski and I attended an Amherst meeting convened by Town Councilman Bill Kindel to discuss possible local use of new National Wetland Inventory maps maintained by the Fish and Wildlife Service. The meeting was attended by Board member Mike McGuire, Planning Director Rick Gillert, the Town Engineer, two representatives of the DEC and one from the Army Corps of Engineers.

The Sierra contingent told them of the Atlantic Chapter's program of digitally overlaying these new more accurate FWS maps on current DEC wetland maps and making them available across the State. We proposed that the Town of Amherst request the DEC to use the new maps to update their wetland maps of Amherst.

After Sierra made its case, a very considerable discussion of wetland regulation ensued, made possible by the expertise of our well informed Amherst officials as well as that of the State and Federal experts present. We concluded that Amherst has in place an excellent system for enforcing wetland laws and that the vast majority of wetlands in Amherst were

well delineated on foot by officers of the DEC within the last two years.

We therefore decided that our suggestion to pursue correction of DEC wetland maps in Amherst was unnecessary. It was further agreed that Rick Gillert would put together for wider distribution across the State a document that would describe the excellent system of wetland regulation used by his Amherst Planning Department.

The implication that I draw from this meeting is that the wetland development that has plagued the Town of Amherst was a product of past policies. We will have to monitor future development to see if in fact the Amherst system of wetland regulation enforcement works as well as this expert group indicated that it does.

Sierra Club suggests that the Town of Amherst consider asking the NYS DEC to update wetland delineation in Amherst based on new National Wetlands Inventory maps created by the Fish and wild life service.

Background information on this subject is available on our website <http://newyork.sierraclub.org/niagara>.

## Threat to Erie County Forest

*(information provided by Larry Beahan)*

Erie County Forest #7 has sacrificed the magnificent big trees that gave it scenic splendor for not very many dollars. On March 30, 2006 we made a visit to EC Forest #7 with News Reporter Jay Bonfatti accompanied by a photographer.

We met at the gate to Forest 7 where Jim and Fred of the Hillview logging company had already arrived with a huge log loader. The many logs harvested still lined the \$50,000 FEMA logging road into the property.

They accompanied us as we walked and talked our way to the logged off 16 acre hillside portion of that 75 acre forest. They had hi-graded, "selectively" cut 185 of the largest trees in the forest. The trees were mostly sugar maple but there were cherry and hemlock on the ground as well. One of the Hemlocks had more than 200 rings to be counted.

Some straw had been spread over a section of very deep mud in the logging road where it approached a culverted stream crossing. The whole area is on a slope that averages 29 degrees but some very large trees had been taken from slopes as high as 60 degrees and close to the stream. There was no buffer zone along the stream.

The area timbered was a stand of "Old Growth" we counted rings on several logs and stumps and found them in the range of 150 to 200 years old. They bore the moss and bare bark spots of ancient trees and some trees left standing had the awkward branching characteristic of very old trees.

I personally counted 186 rings on a maple stump set on a very steep bank. That tree was a seedling when, in 1820 James Monroe became President of the United States in a crushing victory over John Quincy Adams.

With all these majestic old trees gone it will be many decades before this 16 acre section of forest recovers the scenic splendor it had two months ago. Let's not let this happen to the remaining 3500 acres. Ask the County Legislature to go back to the drawing Board and come up with an administrative plan to preserve our Erie County Forest.

## Bigger Better Bottle Bill Passes State Assembly

The Bigger Better Bottle Bill, which calls for recycling of more types of bottles and cans and provides for non-claimed deposits to go to a state environmental fund, passed the Assembly by a 2-1 margin.

Now it goes to the State Senate which is being called upon to take up the bill for discussion and a vote.

**"Niagara County Legislature" con't from pg. 1**

Using language from the Great Lakes Water Quality Agreement of 1978, the resolution was worked out in collaboration with county environmental attorney Gary Abraham. It states, "The discharge of toxic substances in toxic amounts be prohibited, and the discharge of any or all persistent toxic substances be virtually eliminated." It calls on the DEC in any siting plan to include the following: "No new or pending application for a disposal facility...shall be sited in a location with potential to discharge to the great Lakes system..."

Currently CWM is allowed to discharge 21 to 25 million gallons of pre-treated wastewater each fall into the lower Niagara River.

CWM district manager said the company was unaware of the legislature's action and will be reviewing the matter.

Now the matter goes to the State Senate and Assembly for possible action..

## New York State Beach Cleanup Saturday, September 16, 2006

*(From the American Littoral Society, Northeast Chapter, 28 West 9<sup>th</sup> Road, Broad Channel, NY 11693, 718-634-6467, www.ALSNYC.org, donriep@aol.com)*

Plan to be at an ocean beach or near a river, stream, wetland, or lake on the third Saturday in September to join a cleanup team (or form one of your own) and participate in the International Coastal Cleanup, coordinated annually in the Empire State by the American Littoral Society. Be a part of a worldwide effort of The Ocean Conservancy to document and remove marine debris from our shores and waterways. Marine debris is not only unsightly; it poses threats to wildlife. Birds become entangled in discarded fishing line and 6-pack ring holders; marine mammals ingest plastics that can obstruct their intestinal tract.

In 2005, over 9,000 volunteers documented and removed over 156,000 pounds of debris from 329 sites across New York State.

Cleanup sites for 2006 "at a beach near you" will be listed in mid-August on the American Littoral Society website: [www.alsnyc.org](http://www.alsnyc.org). You can also call the Beach Cleanup Hotline: 800-449-0790. For assistance in forming a cleanup team of your own, contact Beach Cleanup Coordinator Barbara Cohen at [alsbeach@aol.com](mailto:alsbeach@aol.com) or 718-471-2166. To obtain information on cleanups in states other than New York, contact The Ocean Conservancy at 800-262-BEACH.

***For questions about the environment or how you can get involved, please contact one of the current members of the Niagara Group Executive Committee!***

### Executive Committee officers - Terms 2006-2008

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## WETLANDS ARE IMPORTANT TO LAKES

Guest View by Art Klein, published in the Tonawanda News on April 18, 2006

One thing is very clear— we in the Great Lakes Basin now have but one asset: Water.

Whether we use it for fun or profit, our water and waterfronts are just about all we have. Water quality mainly depends on two things: controlling the pollutants we humans just love to dump; and the effectiveness of wetlands to cleanse surface waters that flow through on their way to the rivers and lakes at our doorstep.

Wetlands are nice natural areas that concentrate wildlife and vegetation in a small area of the terrain. The principal thing that separates wetlands from surrounding areas is they are generally lower and always contain a unique combination of soils called hydric soils.

During the 1970's and 1980's, I was a waterway investigator for the Corps of Engineers. I met with dozens of government officials, individuals and contractors to inspect the impact of their construction projects on navigation and wetlands. I also aided in several public hearings to inform these same folk of the new wetland regulations.

By the late 1970's, in just about every office of responsible town supervisors and engineers, a well-thumbed copy of the county soils maps would be in easy reach. These folk recognized that wet-

lands were now an important part of our Great Lakes fabric and were fully aware of the wetlands in their province of concern.

With this, my experience, I was unprepared for the reaction of the North Tonawanda officials at the DEC information hearing March 30 in NT City Hall.

Recently the US Fish and Wildlife Service discovered that more wetlands exist in North Tonawanda than had been previously mapped by the DEC. Maps delineating these wetlands were released but are not yet adopted. The DEC is now seeking ways to implement this information.

The DEC wetlands were mostly mapped in a hurry-up fashion in the 1970's and that science is now much improved. The wetlands are not new but have been here since the last ice age 12,000 years ago. Sadly for a Great Lakes City, North Tonawanda does not appear ready to realize the presence and importance of their wetlands.

At the hearing, one councilperson complained that New York State was over regulating its wetlands. Sorry, Brett (Sommer), but New York has less wetland regulation than every other state in the Great Lakes and all the Northeastern states. It is sad that we continue to allow such threat to one of our most important assets.

The mayor wants the government to compensate owners of wetlands for the loss of value. There has been a lot of sympathy for this but Congress is afraid as many fools as victims would be rewarded. After all wetland knowledge has become pretty common in 35 years.

As far as an over-designed water treatment plant, I recall the EPA officials in the 1970's imploring local and county governments to combine their facilities. The DEC would never be expected to intervene and redesign plans from an architect/engineer firm and a municipality. They just make sure the system works. But most municipalities were reluctant to combine resources.

I was also surprised at the representative of MJ Peterson. Now this firm should know the nature of wet basins that had been avoided by many generations of much smarter folk. I cannot get over that he and all the officials, planners and engineers involved who appear not to realize hydric soils were present in all these vacant basins of the city. I question the motivation of anyone who would propose to build in this soupy environment. Think of the sinking homes in Amherst when you ponder (Dennis) Penman's words.

After the city officials huffed and puffed then disappeared into the night, they missed many local citizens who were disturbed that development near them was shoving water into their yards and basements.

But the important thing here is that wetland laws also are the laws of New York State and of the federal government that these same officials have sworn to uphold when they assumed office. To challenge and provide adversarial comments to a state representative who was there to help define these laws is a civic embarrassment. Shame on every North Tonawanda official who was so discourteous.

Another amazing fact is that North Tonawanda endeavors to build new homes in the wetlands, just when the overall housing market is deflating and Western New York's largest employers are down sizing. Maybe they want to house the 600-plus employees whose NT companies moved to other areas and who lost their jobs last year.

I recommend that North Tonawanda just appraise its situation. The waterfront, not housing in the inland wetland basins, is the key to your future. Fix it up, put in public dockage, provide public access and a reason to be there. Look at the success on the Tonawanda side of the canal and get to work. The public will then come to celebrate the magic of water.

***The following letter was sent to the U.S. Army Corps of Engineers regarding C.W.M. Chemical Services Wetland Application.***

Dear Mr. Schlueter:

The Buffalo Niagara Riverkeeper requests that the U.S. Army Corps of Engineers conduct a public information session in the Town of Porter in regard to C.W.M. Chemical Services' application for a permit to fill 1.55 acres of federally regulated wetlands.

We are concerned not only with the additional loss of wetlands on a property that has already suffered the destruction of many acres of wetlands, but also with the potential disturbance of highly contaminated land. We are aware that the state Department of Health has banned excavating or disturbing the soils on site because of ongoing contamination issues.

Given the environmentally destructive history of this site, any continued erosion of environmental protections such as federal wetland regulations will only reinforce the public perception that the Town of Porter is a "sacrifice area." Another loss, even one as comparatively small as 1.55 acres, may well signify that the trend continues and that the agencies assigned to protect and restore environmental quality have written this area off. "Once a dump, always a dump."

The region and Town of Porter residents should not be asked to give away any more environmental protections without a thorough public discussion of the longer-term plan for restoring this site. If there is something to be gained by destroying more wetlands, the community needs to know what it is so they can make, as long-term residents, informed decisions for the future.

Thank you for considering this letter. Please reply to [mwooster@bnriverkeeper.org](mailto:mwooster@bnriverkeeper.org).

Sincerely, Margaret Wooster, Greenway Director

## OUTINGS CALENDAR

### Saturday Sept 2 - Buffalo River Trip

Join us for a canoe and kayak outing to explore the rehabilitation of the Buffalo River. We will put in at 9am at Buffalo Harbor at LaSalle Park or, if it is too windy, further upstream. We will paddle through what was once the busiest grain port in the world, (where grain elevators are mostly abandoned now), and see waters that once could burn but are responding to efforts to rid them of pollution and where old commercial sites are finding new uses.

Wear a life vest and a hat, at least. Bring water and lunch and a change of dry clothes. Call Larry Beahan, 716-839-3112, to reserve a spot. They are going fast.

### September 16, 2006 - Presque Isle, PA

Let's spend the day at the beach! We'll visit the Nature Center and learn about the history of Presque Isle and their use of wind turbines to generate energy. Then we will spend the day studying the waves, birds and the sun. This will be an educational and relaxing day. We will walk the beach as we desire and enjoy the good company and conversation of other Sier-rans. If you are interested or have questions please email me at jontzja@hotmail.com or call me at 716-628-6934. Please let me know of your interest by September 13. *-Jane Jontz*

*Please log on to our website for outing updates and opportunities*

### Clean Water Amendment Passes

*from Jill Ryan, of the Great Lakes Aquatic Habitat Network and Fund*

The House of Representatives voted 222-198 in favor of the Oberstar/Leach/Dingell Clean Water Amendment to the Interior/EPA appropriations bill. The amendment prevents the EPA from continuing to use the SWANCC-related policy guidance it issued with the Corps of Engineers

in January, 2003. The vote was a strong, bipartisan message to the administration that the outdated guidance, cited by two GAO reports as creating massive confusion and leading to loss of protection for many waters that should still be protected under the law, has to go.

If you have information you wish to share or copy for use in the Trailblazer, please send it to Charles Lamb at 335 Walnut Lane, Youngstown, NY 14174 or clamb0@prodigy.net or at 716-745-7037. Deadlines for the year are as follows: March 1, June 1, September 1, and December 1.

The Niagara Group of the Sierra Club meets on the 4th Tuesday of every month at 7p.m. at The Natural Sciences Complex at UB's North (Amherst) Campus, room 684. This is near the Govenors complex off of Sweethome Road at the Rensch entrance, north of Maple. All Sierrans are invited!

1	◆ Audubon Rejects CWM Money
◆	Niagara County Legislature Moves to Defend Waterways
◆	Implementation of the Erie County Pesticide Neighbor Notification Law
◆	Progress in Amherst to Save Wetlands
2	◆ Threat to Erie County Forest
◆	Bigger Better Bottle Bill Passes State Assembly
◆	New York State Beach Cleanup Saturday, September 16, 2006
3	◆ Wetlands are Important to Lakes
◆	Letter regarding C.W.M. Chemical Services Wetland Application.

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Sierra Club  
Niagara Group



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