

Representative Policy Board
Land Use Committee
South Central Connecticut Regional Water District

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AGENDA

Regular Meeting of Wednesday, February 8, 2023 at 5:30 p.m.

1. Safety Moment
2. Approval of Minutes – January 11, 2023 meeting
3. Deer Hunt Update: Nicole Smith
4. Discussion regarding hybrid meetings
5. Updates on land and RWA properties, including invasive species update
6. Other land items
7. Next Regular Meeting: Wednesday, March 8, 2023 at 5:30 p.m.
8. Adjourn

****Members of the public may attend the meeting via remote access using the instructions at the top of the agenda. To view meeting documents, please visit <https://tinyurl.com/jh9wjcu>. For questions, contact the board office at 203-401-2515 or by email at jslubowski@rwater.com**

SAFETY MOMENT

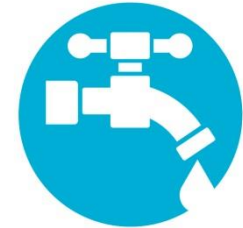
FEBRUARY – AMERICAN HEART MONTH

Did you know that cardiovascular diseases claim more lives each year than all forms of cancer and chronic lower respiratory disease combined?

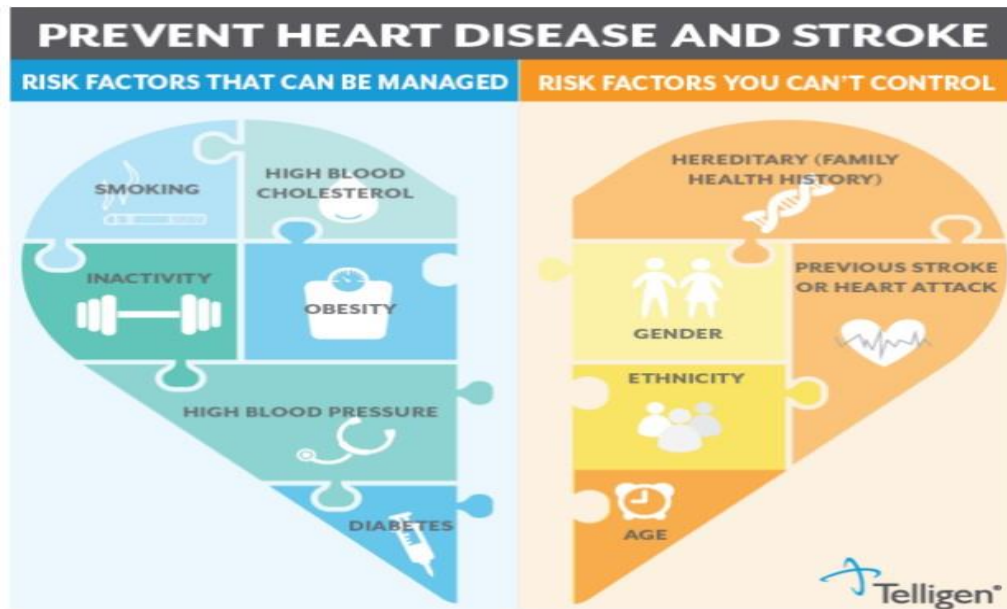
About 20.1 million adults age 20 and older have cardiovascular disease.

Approximately every 40 seconds, someone will have a heart attack or stroke.

TapInto
Safety



Regional Water Authority



Service – Teamwork – Accountability – Respect – Safety

Safety is a core company value at the Regional Water Authority .
It is our goal to reduce workplace injuries to zero.

 Regional Water Authority

**Representative Policy Board
Land Use Committee
South Central Connecticut Regional Water District**

Minutes of January 11, 2023 Meeting

The regular meeting of the Land Use Committee of the Representative Policy Board (“RPB”) of the South Central Connecticut Regional Water District (“RWA”) took place on Wednesday, January 11, 2023, via remote access. Chair Betkoski presided.

Committee Members: P. Betkoski, P. DeSantis, B. Eitzer, R. Harvey, M. Horbal, M. Levine, G. Malloy, J. Oslander, and J. Mowat Young

RPB: C. Havrda

Management: L. DiFrancesco, J. Hill, S. Lakshminarayanan, and J. Triana

Staff: J. Slubowski

Chair Betkoski called the meeting to order at 5:30 p.m. He reviewed the Safety Moment distributed to members

On motion made by Mr. Horbal, seconded by Mr. Harvey, the Committee approved the minutes of its December 14, 2022 meeting.

Ms. DiFrancesco, the RWA’s Multimedia Communications & Community Outreach Coordinator, Provided a presentation on the RWA’s Environmental Education program, which included:

- Program Overview
- Outside and Onsite Programs
- Participation Background
- Pre and Post-COVID Participation
- COVID Impacts & Trends
- Digital Improvements

At 5:47 p.m., Ms. Young entered the meeting.

Committee members discussed effects of pandemic, communications and outreach, and succession planning.

At 5:51 p.m., Ms. DiFrancesco withdrew from the meeting.

Update on *The Land We Need for the Water We Use Program* – Mr. Triana, the RWA’s Real Estate Manager, reported:

Reservoir Levels (Percent Full)

	Current Year	Previous Year	Historical Average	Drought Status
December 31, 2022	80%	85%	72%	None

Rainfall (inches)

	Current Year	Previous Year	Historical Average
December 2022	4.55	1.55	4.09
Fiscal YTD (6/1/22 –	23.86	31.13	27.11

Land We Need for the Water We Use Program (Dispositions/Acquisitions)

- Prospect – Corresponded with property owner of 40+/- acres.
- Hamden – Corresponded with property owner of 2+/- acres.
- Cheshire – Corresponded with property owner of 50+/- acres.
- Cheshire, former Ricci property – Corresponded with Town staff about the status of the OSWLA grant.
- North Branford, Beech St. and Poms La. properties (NB 4) – Murtha confirmed with Assessor that the “island parcel” could be split administratively, but needed to follow-up about the other parcels.
- New Haven, Munson St. – Filed water main easement and map on the city land records.

Rental houses:

- Hamden, 233 Skiff St. (HA 9A) – Many tires dumped at the property. Some taken to disposal facility. Additional calls and emails placed to asst. town attorney to address the condemnation matter. Asst. town attorney replied to VP. Spoke to appraiser about the matter and he expected to work on the appraisal in January.
- Hamden, 95 Ives St. - Corresponded with owner about work at the property. Work began by the end of the month. Activity at the house prompted various reactions through email and online, many of which had erroneous information.
- Woodbridge, 1029 Johnson Rd. – Corresponded with owner about work at the property.
- Guilford, 1155 Great Hill Rd. - Corresponded with owner about work at the property.

Forestry Update

- Killingworth - East Hammonasset Leaf Screen Thinning, (KI 4) – **40% complete.**
- Hamden - Overstory removal and Tornado Salvage, (HA 36) – Not started yet. **May be pushed to summer due to ground conditions.**
- Killingworth - N. Chestnut Hill Patch Cuts, (KI 6) – **20% complete.**
 - Marked timber for GU12/12A silvicultural treatments near the Menunketuc reservoir, laid out more harvest boundary, and worked with Operations to improve drainage along an access road.
 - Worked with professional deer hunter to remove deer from within the Nathan’s Pond slash wall. Cut up tops and debris, and dragged and positioned brush and logs to plug a hole in the wall that deer were using to gain access.
 - Worked with a suspended woodcutter involved with a property dispute to resolve the permit suspension issue. Inspected the partially completed access road, which he voluntarily initiated across his property, and outlined additional steps necessary before reinstatement could be considered.
 - Worked with Killingworth Tree Warden to obtain permission to remove a town-owned tree obstructing truck access to a log landing.
 - Contractor removed overgrown evergreens from the Gaillard Christmas tree farm.
 - Reached out to three woodcutters requesting removal of apparently abandoned equipment from their respective woodlots.
 - Found and removed coin collection at Dudley Pond. Turned into Police.

Recreation

- Owl walk at Lake Bethany had about 30 participants.
- Invasive species identification walk at Lake Saltonstall had 9 people.
- Started the process for hiring new recreation staff for the 2024 fishing season.
- Website link for getting permits was broken. Addressed by online vendor.
- Cleared downed trees and limbs from trails at Lake Chamberlain, Big Gulph and Saltonstall.

- Gave tour of recreation areas to two new Customer Service Reps.
- Submitted DPH recreation activity use application for the alternate route of the New England Trail in Guilford.

	December		November	
	2022	2021	2022	2021
Permit Holders	4,851	5,655	4,913	5,578

Special Activity Permits

- New Haven Bird Club (Chris Loscalzo) - Annual Christmas Bird Count survey - Saltonstall, Whitney, Wepawaug, Maltby, Dawson, Glen, Chamberlain, Watrous – (12/17/2022).
- Dr. Chris Loscalzo (at request of CTDEEP) - Annual Midwinter Bald Eagle Survey - Lakes Saltonstall and Gaillard – (1/7/2023).
- McLaren Engineering Group (Craig Plate) – Perform a routine and underwater inspection at SR707 over Lake Whitney; contracted by CTDOT to perform the inspection; (12/13/2022).
- CT Agricultural Experiment Station (Dr. Jeff Ward, et al) - General forestry and wildlife research, tick/Lyme Disease studies - Lake Gaillard, North Madison, Prospect, Seymour, Branford, Bethany (12/7/2022 – 12/7/2023).

Other items

- Encroachments/agreements –
 - Agricultural agreements – The Matthew St. field in Prospect was cleared of invasives, as well as large trees and rocks, for the tenant.
 - North Branford, Forest Rd. (NB 17) – Sent letters to many abutters about encroachments after remarking the boundary.
 - Trespassing – Recorded instances of trespassing including hunters, ATV's, hikers with dogs, and hikers in unpermitted areas.
 - Milford, Low Pressure Agreement – Low pressure agreement at 543 Plains Rd. was released.
- Invasive plants – Treated or documented invasive plant populations in North Branford, Bethany, East Haven, Branford and Prospect.

Invasive Species Documented/ Mapped (ac)	44 acres
Invasive Species Treated (ac/MH)	10 acres

- Deer hunt – About half of the post-hunt surveys have been returned.
- East Haven, Beach Ave. watermain – Town Council approved a resolution to convey an easement across town property between Morgan Ave. and Beach Ave. for the new watermain.
- Hamden, 364 Putnam Ave. (HA 8) – Corresponded with manager of abutting property since retaining wall was failing and needs to be replaced. Sent draft of license agreement to them to review allowing the access to our property to do the work.
- Hamden, Walden St. request (HA 5) – Rejected request from an abutter to put a sign on our fence regarding their business.
- Durham, Higganum Rd. (DU 6) – Fielded complaint from property owner downstream that the town was releasing water from a beaver-clogged crate and causing erosion.
- Boundaries – Checked and remarked boundaries in Guilford.
- Assisted with the 90 Sargent Dr. pollinator garden.

- ISMT performed drone flights at the Derby Tank sight and the DAF project at West River.

Committee members discussed security applicants, interest, and screening.

Ms. Young thanked Mr. Triana for providing information for the Killingworth Board of Selectman regarding cutting taking place on N. Chestnut Hill Road.

Mr. Lakshminarayanan, the RWA's Vice President of Engineering and Environmental Services, provided an update on the collaboration between the RWA's Police Captain and the New Haven City Police athletic leagues to provide information on a program for inner city children this summer.

Mr. Horbal commented on three water main breaks in the Town of Seymour in the past month. He noted that the breaks were Aquarian water mains. Mr. Horbal and members of RWA will be meeting with Town officials next month to discuss this matter and other issues.

Chair Betkoski reviewed committee member attendance at the next Authority meeting.

The next meeting is scheduled for Wednesday, February 8, 2023 at 5:30 p.m.

At 6:22 p.m., on motion made by Mr. Levine, seconded by Mr. Oslander, and unanimously carried, the committee meeting adjourned.

Peter Betkoski, Chairman

**Presentation to the Regional Water Authority
Land Use Committee**

**Review & Summary
of the
2022 Controlled Archery Hunt**



Nicole Smith
Natural Resources Analyst

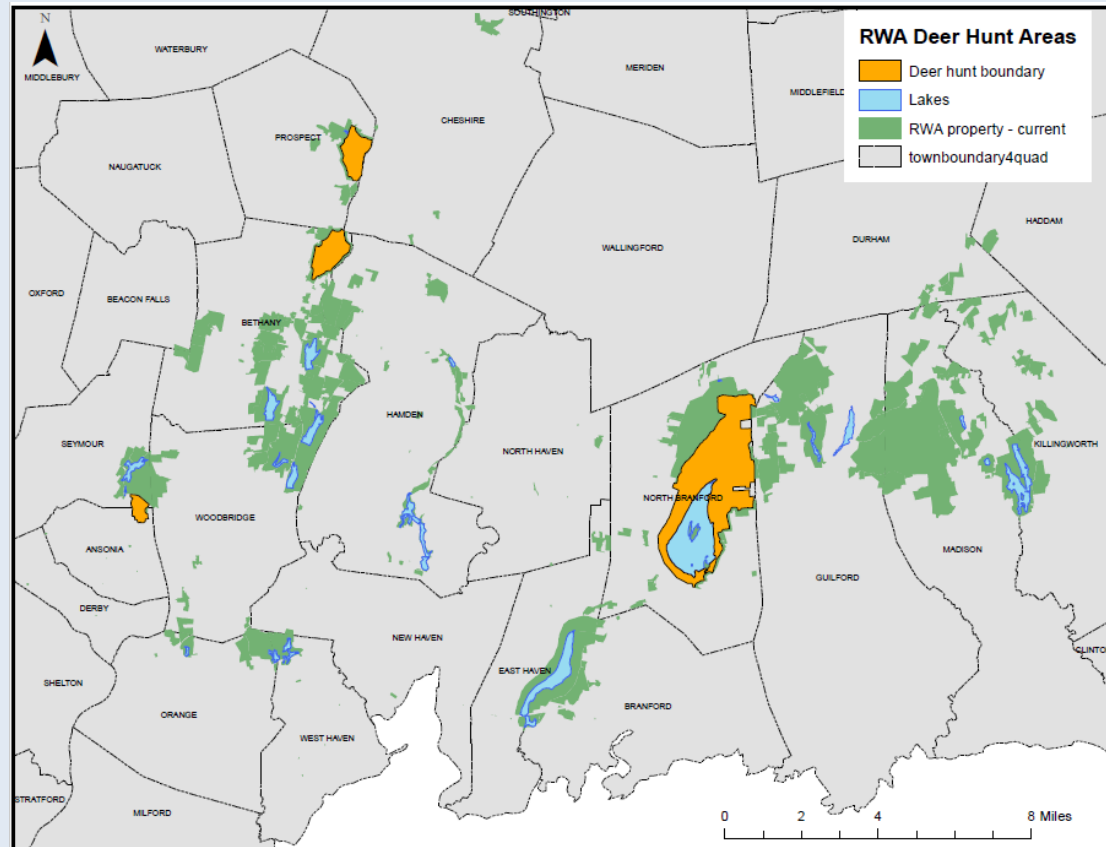
Review of 2022 Archery Deer Hunt -Year 14

- Hunt began in 2009 on one property – Lake Gaillard
- Desperate need to control deer browsing in service to forestry program goals
- Program expanded to 4 hunting areas starting in 2014



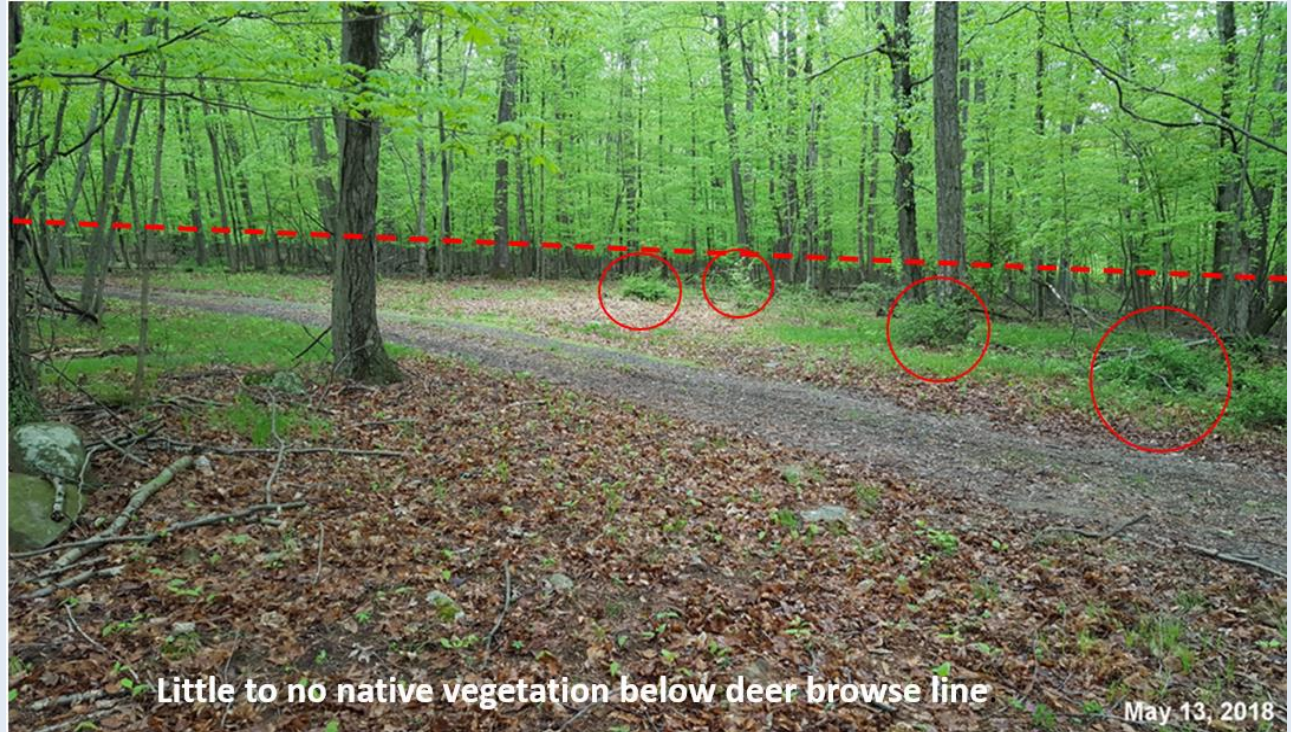
Deer Hunting on 4,327 Acres

Property	Acres	Start
Lake Gaillard (NB)	3233	2009
Ansonia/Seymour	154	2014
Bethany	520	2015
Prospect	420	2015



Reducing Deer Density

- Enhances forest regeneration
- Controls erosion and locks up nutrients that can fuel algal blooms in reservoirs



Hunting Season Brief Summary 2022

- 330 applications mailed
- 181 participants after returned applications, attending/passing proficiency test and safety meeting attendance
- 10 days of scouting 10/1/2022 to 10/10/2022
- 29 Days of Hunting During 10/28/2022 – 11/30/2022, no Sunday hunting
- **24 deer harvested, 20 bucks, 4 does**
- Surveys due Tuesday, January 31, 2023
- Two deer check stations (Lake Gaillard & Bethany) staffed by 53 volunteers.
- No accidents or injuries

[illegible]

Hunting Season Brief Summary 2022

Surveys due Tuesday, January 31, 2023

Results

Property	Hunters	Returned Surveys	Total Days Scouting	Avg. Days Scouting	Total Days Hunting	Avg. Days Hunting	Total Hours Hunting	Avg. hours hunting/day
North Bran	128	114	245	2.26	832	7.8	4675.5	5.62
Bethany	23	20	26	1.53	92	5.4	492	5.35
Prospect	20	19	36	2	97	5.4	461	4.75
Ansonia	8	7	16	2.29	30	4.3	156	5.20
Total	179	160	323	XXXX	1,051	XXXX	5,784.50	XXXX



Changes to the 2022 Hunt

- Changes made for safety in light of 2021 accident
 - ❖ Re-instated proficiency test
 - ❖ Re-instated mandatory safety meeting
 - ❖ Required automatic hands free descent device



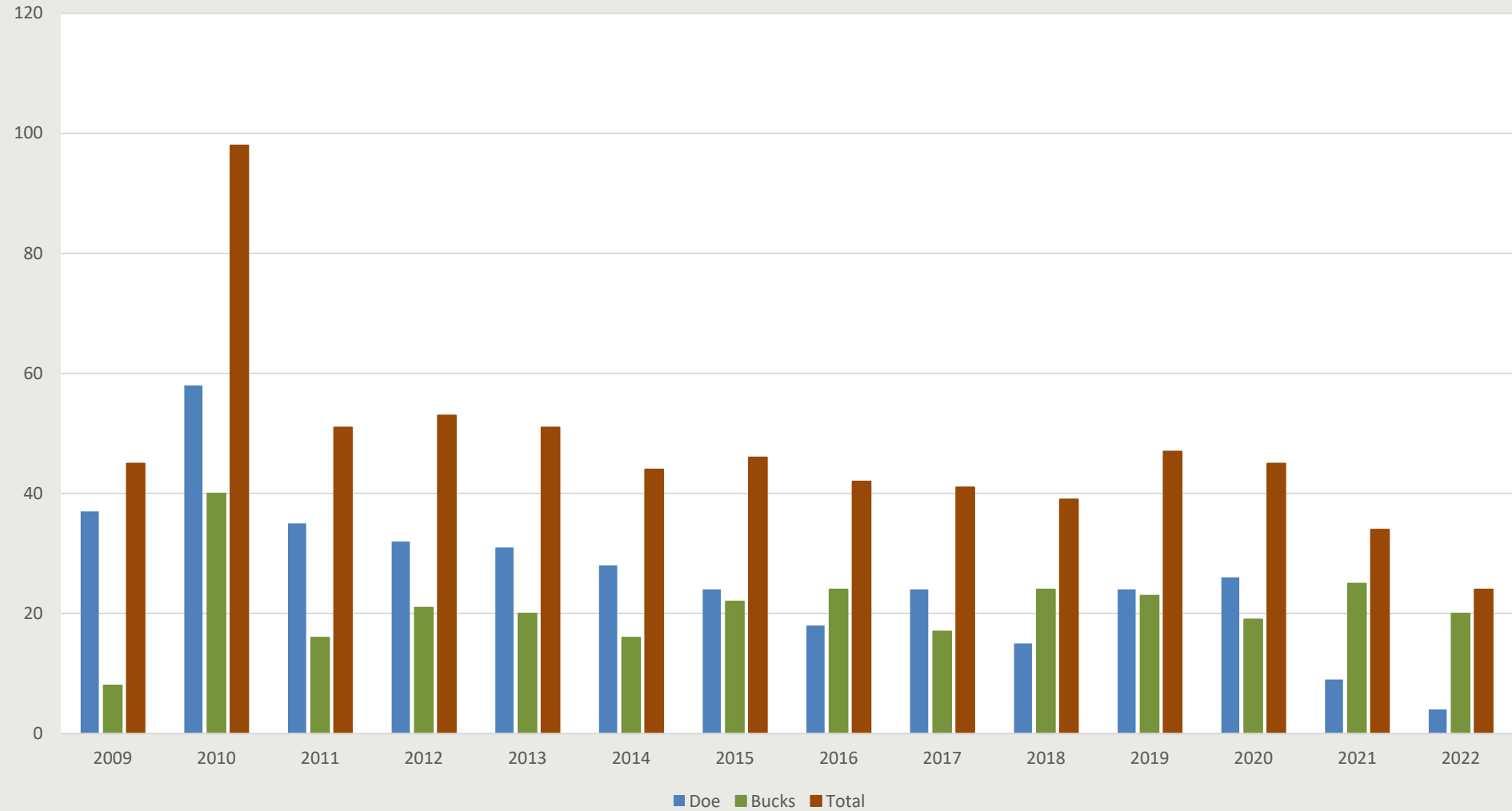
[Descender Demonstration](#)



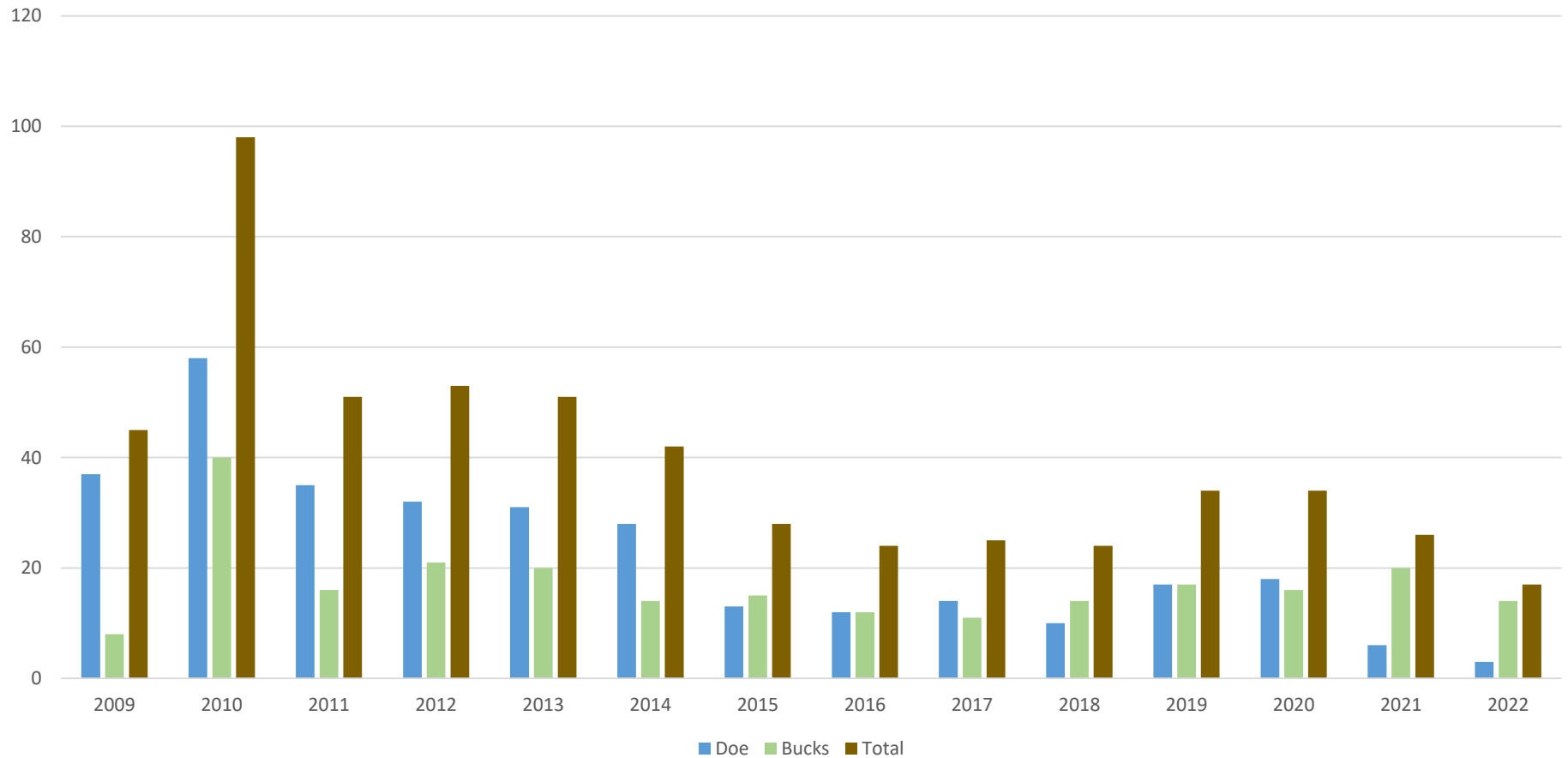
2022 Harvest Totals

2022 Deer Harvest by Area				
Location	Permits	Doe	Buck	Total
North Branford	129	3	14	17
Prospect	20	0	5	5
Bethany	24	1	1	2
Seymour/Ansonia	8	0	0	0
Total Deer by Sex Harvested Past 6 Hunts				
Year	Permits	Doe	Buck	Total
2022	182	4	20	24
2021	205	9	25	34
2020	180	26	19	45
2019	168	24	23	47
2018	172	15	24	39
2017	174	24	17	41

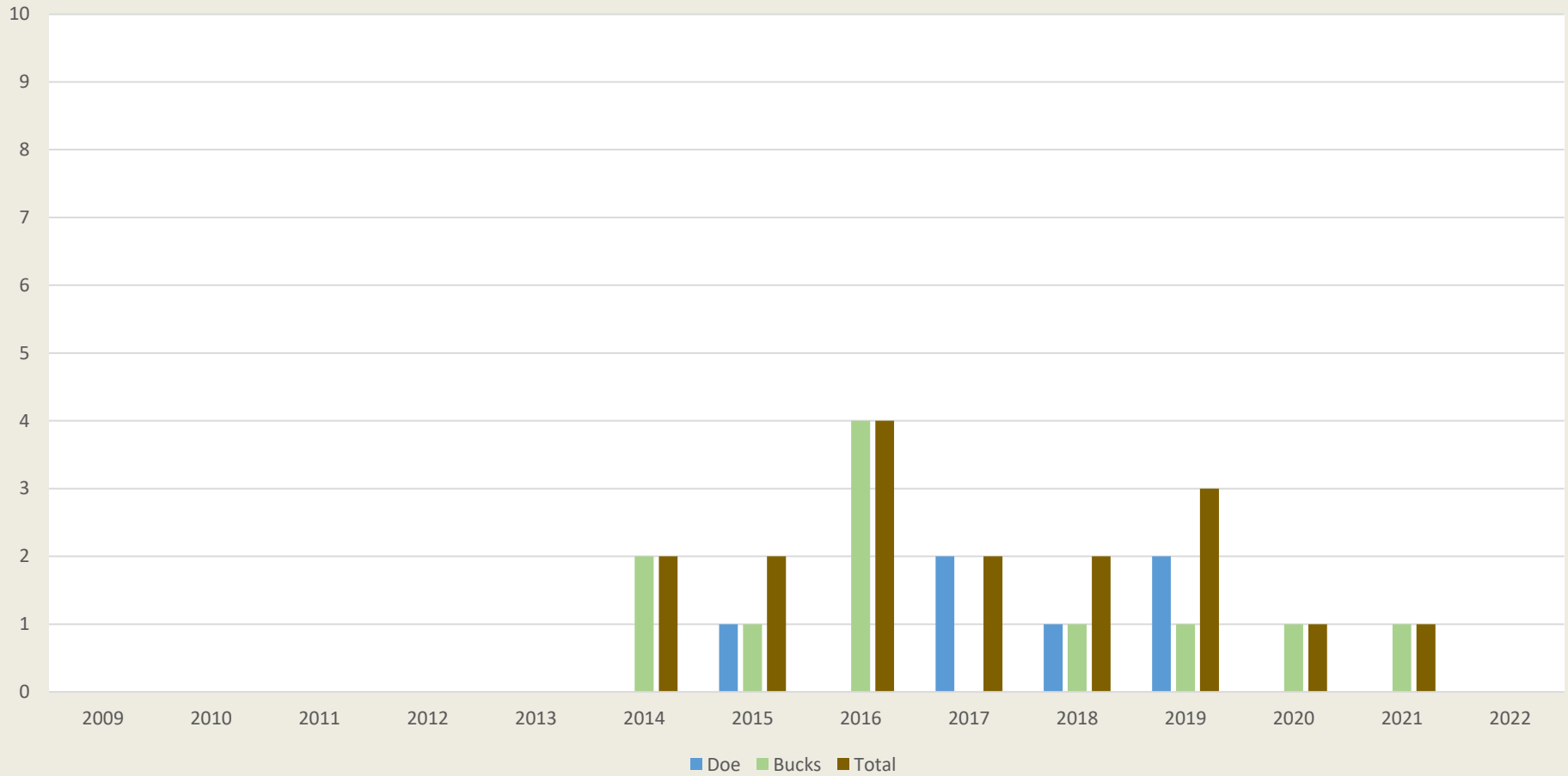
Total Deer Harvested Since 2009



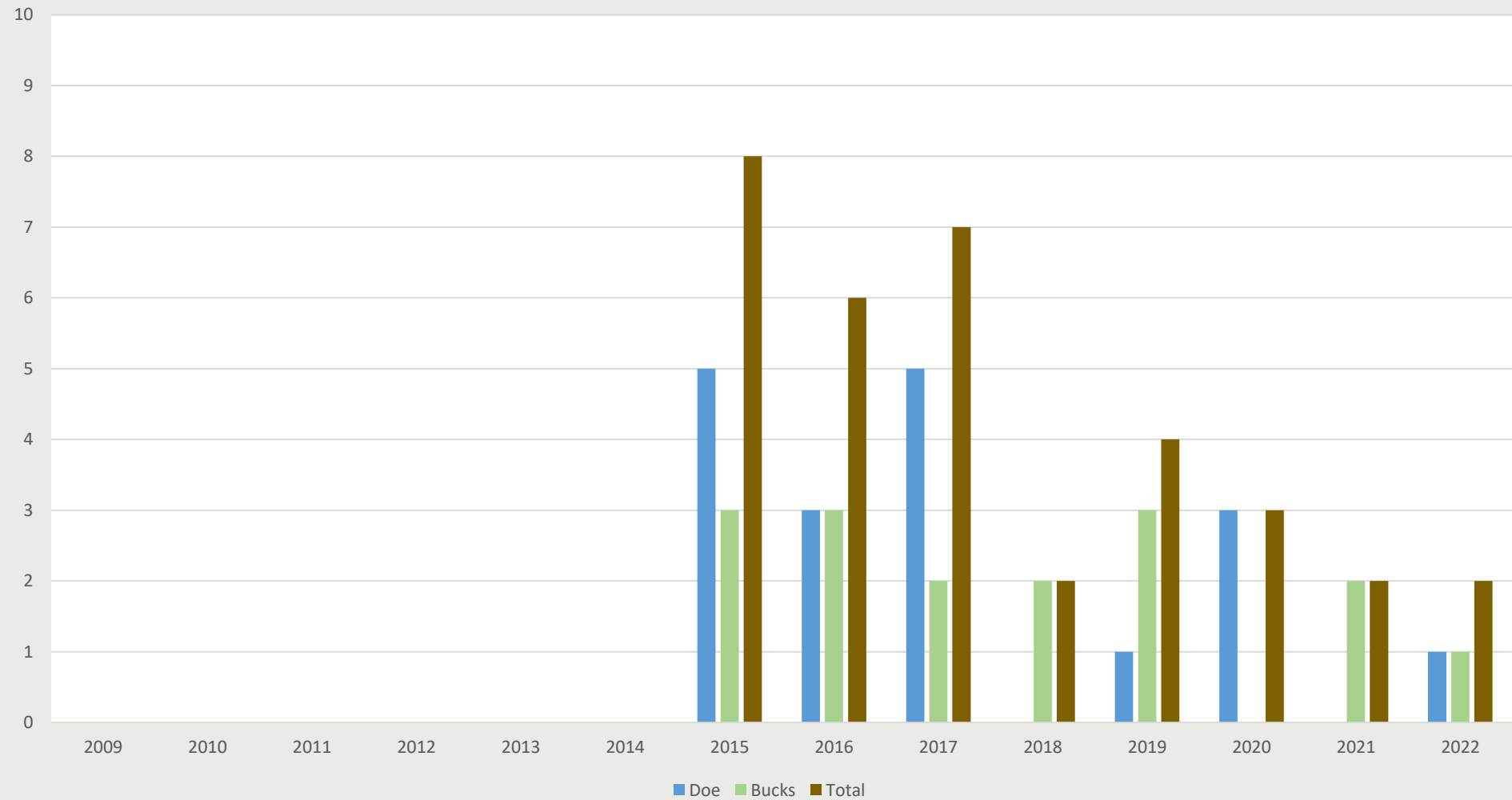
North Branford Deer Harvested Since 2009



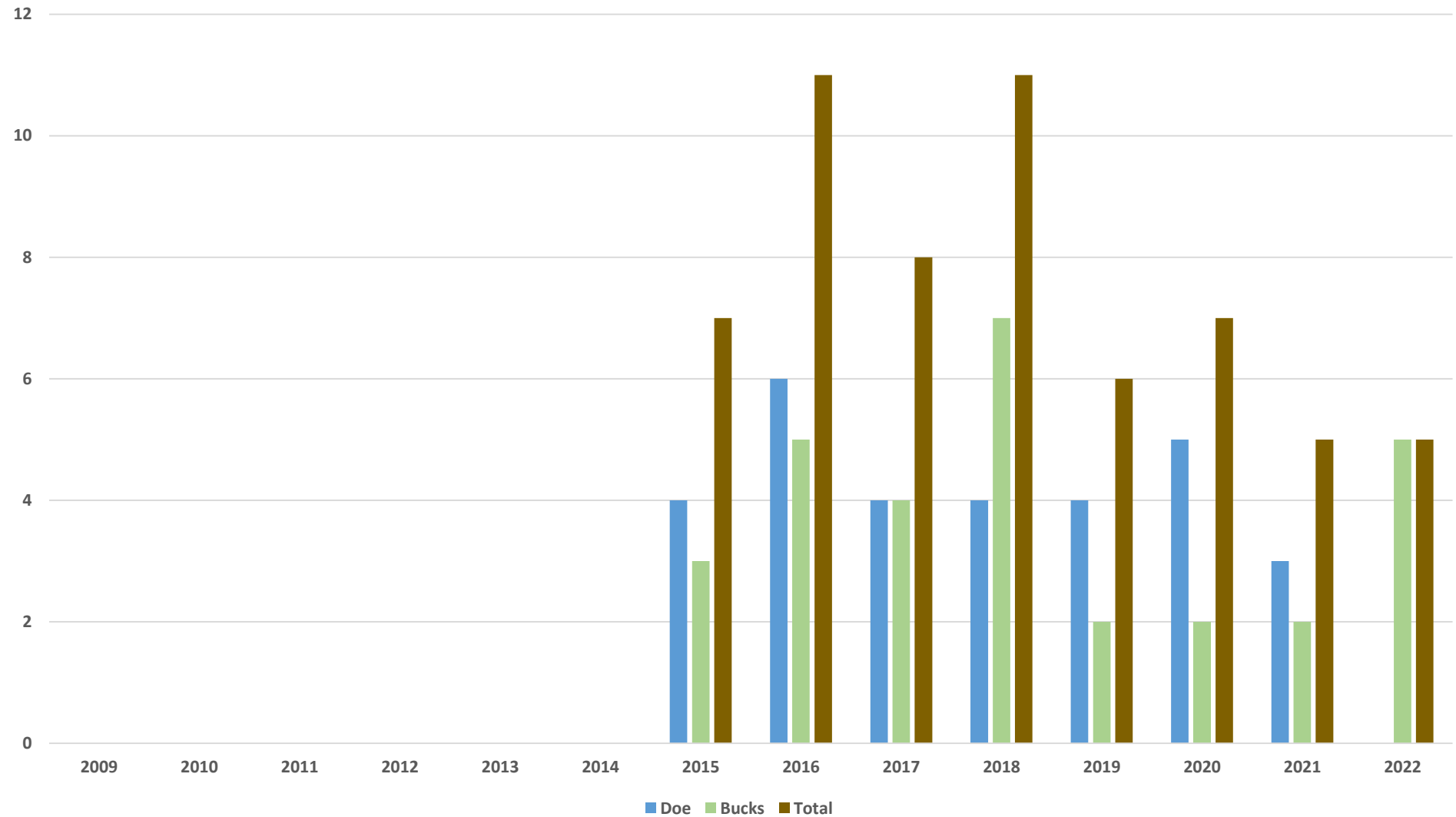
Ansonia/Seymour Deer Harvested Since 2014



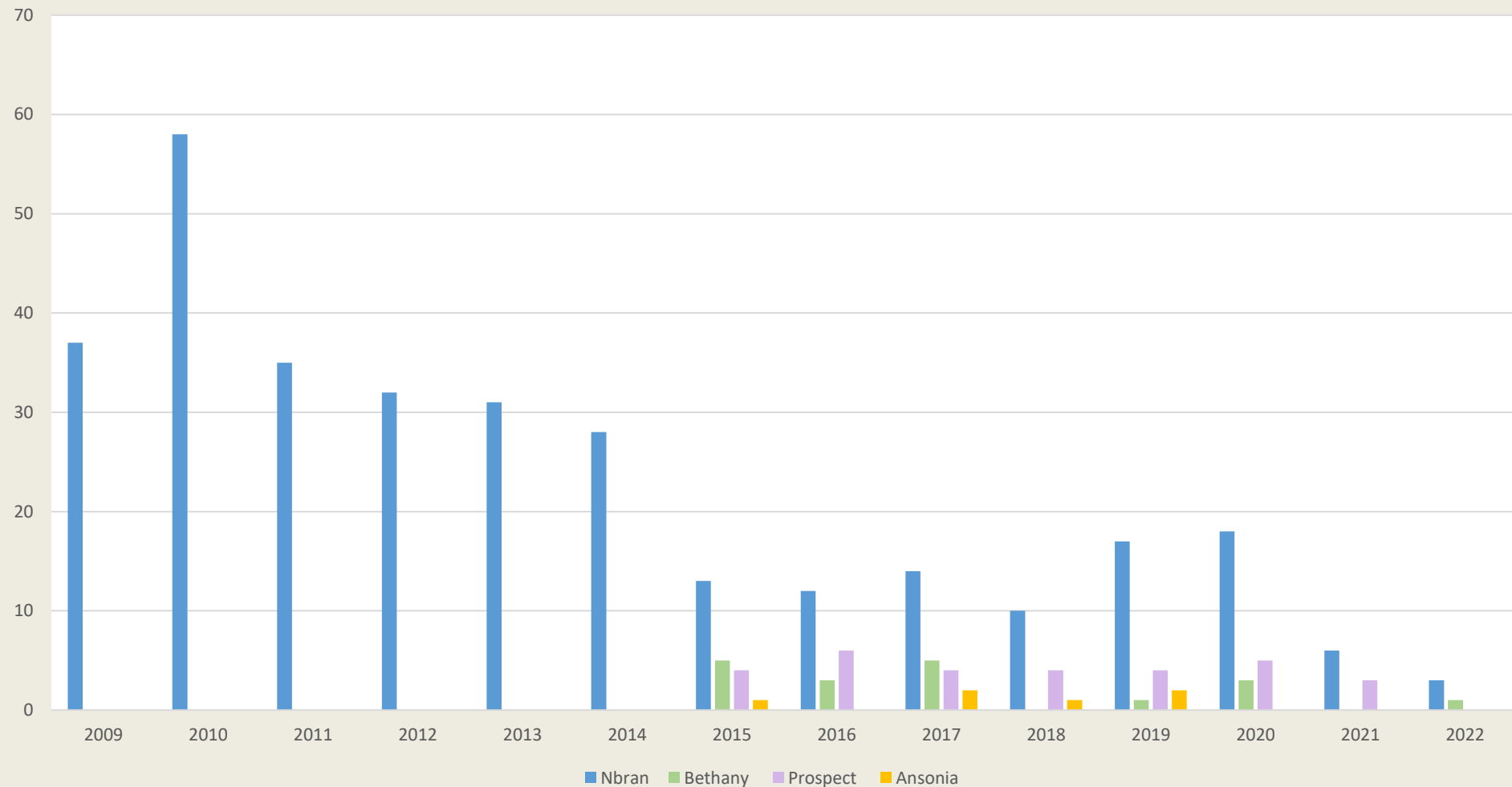
Bethany Deer Harvested Since 2015



Prospect Deer Harvested Since 2015

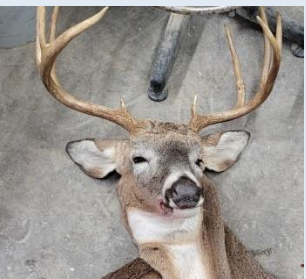


Doe Harvested by Site Since 2009



Final Thoughts

- We have reached the fourteenth year mark for collecting and analyzing data
- Hunt Impacts
 - Fewer deer sightings overall in Bethany, Prospect, and Ansonia/Seymour
 - Of deer observed, fewer deer in range of hunters for ethical, humane shot
 - Increased invasive species, (i.e. barberry and multiflora rose) make some areas inaccessible to hunters
 - Decreased annual harvest, especially harvest of does most evident in North Branford
- RWA Forestry and CT DEEP each have established research plots.
 - RWA Forester is comparing data collected. Analysis of results was done in March 2020.
- Annual DPH reporting requirement.
 - DPH Recreational Activity Permits has been renewed and expires Dec. 2, 2031.
- Hunters are grateful for the opportunity. Appreciate our efforts toward conservation and stewardship of the land. No negative publicity this season.



Questions?



February 8, 2023
Land Use Committee Meeting

Reservoir Levels (Percent Full)

	Current Year	Previous Year	Historical Average	Drought Status
January 31, 2023	90%	87%	77%	None

Rainfall (inches)

	Current Year	Previous Year	Historical Average
January 2023	4.89	2.68	3.57
Fiscal YTD (6/1/22 – 1/31/23)	28.75	33.81	30.68

Land We Need for the Water We Use Program (Dispositions/Acquisitions)

- Prospect, off Roaring Brook Rd. – P&SA executed by both sides. Draft survey reviewed. Total acreage is 43.34. Submitted application to The Watershed Fund for \$20,000 to help offset cost of the acquisition.
- Branford – Corresponded with property owner of 12+/- acres.
- North Branford – Corresponded with property owner or 40+/- acres.
- Madison – Corresponded with property owner or 7+/- acres.
- North Branford, Beech St. and Pumps La. properties (NB 4) – Murtha confirmed with Assessor that the “island parcel” could be split administratively, but didn’t want to do it until after the GL was finalized (1/31/23). Spoke to NBLCT and DEEP staff about the language that we used in a draft deed that was included in NBLCT’s OSWLA application.

Rental houses:

- Hamden, 233 Skiff St. (HA 9A) – Appraiser completed appraisal of area to be condemned by town. Emailed Asst. Town Attorney to get status update of the matter. Last of tires removed and the driveway was blocked with a large tree.
- Hamden, 95 Ives St. - Corresponded with owner about work at the property. Article published in the NH Register about work on the house.
- Guilford, 1155 Great Hill Rd. – Noticed unapproved shed on the property and contacted owner. Will inspect the property in February.

Forestry Update

- Killingworth - East Hammonasset Leaf Screen Thinning, (KI 4) – **70% complete.**
- Hamden - Overstory removal and Tornado Salvage, (HA 36) – Not started yet. May be pushed to summer due to ground conditions.
- Killingworth - N. Chestnut Hill Patch Cuts, (KI 6) – **35% complete.**
 - Woodcutter in Guilford (Prifitera) completed the road on his property and his firewood permit was reinstated.
 - Replied to inquiry about the timber sale off of Abner Lane Rd. in Killingworth.
 - Worked with RWA Operations staff and PermaTreat to establish access for the second landing off of North Chestnut Hill Road.
 - Corresponded with Seymour town staff about water ponding on Haddad Rd. near the log landing.
 - Looked into the request to expand the PA 490 forest-land classification for two parcels in Guilford, and researched opportunities for tax abatement for open space/non-forestland.
 - Worked with professional deer hunter to remove deer from within the Nathan’s Pond slash wall.

Recreation

- Bird walk at Lake Bethany had 20 participants.
- Annual DPH reports were submitted.
- Trails were cleared of downed trees at Lake Chamberlain and Lake Bethany.
- Continued process for hiring new recreation staff for the 2024 fishing season.
- Collected information for the next newsletter.
- Granted request from NBLCT to use wood chips at Gaillard for their trail coming from the Harrison Preserve.
- Responded to inquiry about metal detecting on our property.

	January		December	
	2023	2022	2022	2021
Permit Holders	4,847	5,605	4,851	5,655

Special Activity Permits

- Central CT State University, (Katerina Gillis and Dr. Paul Hapeman, PhD., John Correia,)-provide a better understanding of the distribution of fisher in suitable habitats throughout Connecticut, Lake Saltonstall area, (2/4/2023-2/19/2023).
- New Haven Bird Club (Patrick T. Leahy) – Maintain and monitor bluebird nesting boxes on 7 sites – Downes Road, Bethany, adjacent to Lake Bethany property and field below Lake Dawson dam, Woodbridge, farm field on Sperry Road and Lake Chamberlain below the dam, Lake Watrous and other properties – 1/5/23-12/31/23.
- Branford Land Trust (Tom Cleveland) - Tracking class - Lake Saltonstall woods - 1/28/23 (Rain Date: 1/29/2023) & 2/25/2023 (Rain Date: 2/26/2023).

Other items

- Encroachments/agreements –
 - Agricultural agreements – Corresponded with the tenant of the Matthew St. field in Prospect. Met prospective tenant at North St., North Branford to discuss use of the fields for Christmas trees.
 - North Branford, Forest Rd. (NB 17) – Sent letters to many abutters about encroachments after remarking the boundary.
 - West Haven, Shingle Hill tanks (WH 7) – Corresponded with consultant for Yale to place radio repeater at the tanks.
 - Hamden, 364 Putnam Ave. (HA 8) – Signed license agreement with abutter to use our property while they rebuild a retaining wall.
 - Cell phone towers – Authorized changes at Orange site for Verizon antennas. TMobile expects to work on the Rabbit Rock Tank (NO 1) generator.
 - Hamden, New Haven Country Club (HA 5) – Talked to NHCC president about the license agreement for the parking area which will expire at the end of this year.
 - Trespassing – Recorded instances of trespassing including ATV's, hikers with dogs, and hikers in unpermitted areas, people illegally parking, and illegal fishing.
- Invasive plants – Treated or documented invasive plant populations in North Branford, Bethany, and Woodbridge.

Invasive Species Documented/ Mapped (ac)	181.21 acres
Invasive Species Treated (ac/MH)	12 acres

- East Haven, Beach Ave. watermain – The easement was executed and recorded by the town.
- Deer hunt – Post-hunt surveys were returned. Reviewed planned schedule for this year.
- Seymour, Great Hill Reservoir – Corresponded with consultants for the town about any plans we had of the dam. Noted that we don't have anything since it was conveyed before we bought the BUI system.
- Coyotes – Responded to reporter looking for information on coyotes. Article was published in the NH Register.
- Ansonia, Kimberly La. – Responded to owner of 303 Kimberly La. after he called again about marking our boundaries. Informed him once more that we do not own the property next to his – the state does.
- Boundaries – Completed remarking of boundaries in Guilford (GU 9). Started additional property lines in Guilford (GU 12), Woodbridge (WO 16), and Killingworth (KI 11).
- Met with Operations staff to discuss removing trees from water main ROW's and easements and maintaining these areas in the future.

Attachments

- January 10, 2023 - The Supreme Court Case That Could Upend the Clean Water Act - Reason.com
- February 1, 2023 - EPA wants to accelerate lead pipe replacement in Connecticut, but timeline remains unclear – CT Public Radio
- January 18, 2023 - Elam Ives House, one of Hamden's oldest structures, once at risk of being demolished is now on path to restoration – NH Register
- January 18, 2023 - Milder winters mean Connecticut's ticks are now active all year long – CT Public Radio
- January 25, 2023 - Road salt blamed for elevated sodium levels in East Lyme water – WTNH
- January 27, 2023 - New London is the first city to replace lead pipes with copper - WTNH
- January 18, 2023 - Increased coyote sightings in West Haven bring advice from CT officials – NH Register

Upcoming Agenda Items

March 2023 - Vincent Kay – bee keeper

The Supreme Court Case That Could Upend the Clean Water Act

If SCOTUS finds in favor of a small-town Idaho couple in *Sackett v. EPA*, it could end the federal government's jurisdiction over millions of acres of land.

Zach Weissmueller and Danielle Thompson | 1.10.2023 – Reason.com

Everyone wants clean water, and America's public waterways haven't always been very clean.

In 1969, the Cuyahoga River in Ohio was so polluted by Cleveland's manufacturing industry that it caught on fire, which inspired a *Time* magazine feature describing a river that "oozes rather than flows."

In 1970, President Richard Nixon signed the National Environmental Policy Act, and later that year he established the Environmental Protection Agency (EPA) to "make a coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food."

But in fighting to reduce the pollution of air, land, and water, the EPA has dictated to Americans what they can do on their property even when it has no clear environmental benefit or exceeds the agency's authority.

Now the agency's broad mandate, for the first time since its creation, is facing a serious court challenge. It's a case that started 15 years ago with a couple living in a small town in Idaho.

"When I was in high school, I was up there camping and fell in love with Priest Lake and just had to try and figure out how to live there," Mike Sackett told *Reason* in 2012.

Mike and his wife Chantell Sackett purchased a tract of land abutting an easement, which guaranteed them a prime view of Priest Lake. They planned to leverage their background in construction to build the lakefront home of their dreams. A few days into construction, the Sacketts received a surprise visit from the EPA and Army Corps of Engineers.

"They walked on to the property and said, 'you need to stop work immediately,'" says Chantell Sackett.

The government accused the Sacketts of filling in "wetlands." But the Sacketts didn't understand how a residential lot in an established subdivision with a full sewer hookup 100 yards from the lake and a county title with no indication of wetland status would qualify.

A nearby ditch drained into a stream that connected to the lake. It was separated from the lot by 30 feet of paved road. The proximity of the Sacketts' land to the ditch—in addition to the existence of a subterranean water flow discovered beneath their lot as they began construction—meant that their residential lot was a federally protected wetland, according to the EPA.

Although the Sacketts faced a fine of up to \$75,000 a day for violation of the Clean Water Act and the compliance order, the EPA argued they had no right to challenge them in court until the agency actually took action to impose and collect the fine, which it could do retroactively at any time.

With this threat looming over them, the Sacketts paused construction. The EPA also wanted the Sacketts to remove the gravel they'd poured, fence in the lot, and plant foliage, but the couple refused.

"[The EPA told us], 'we want you to fence it. And then when we want you to plant these wetlands plants, and then we want you to watch it for three to five years and make notes, and we'll be able to come look at that.' And I go, 'are you kidding me?'" says Chantell Sackett. "Why would we do that? I mean, it's a lot in a subdivision...[Does the EPA] want to create a wetland?"

That was in 2012. The Sacketts' case went all the way to the Supreme Court, which ruled unanimously that the EPA's compliance orders were indeed subject to judicial review, meaning the agency couldn't retroactively fine the Sacketts for being in violation of the order as the court challenge was adjudicated.

Ten years later, the Supreme Court is taking up the next part of that case: a challenge to how the agency defines a "wetland."

"The first [Supreme Court] decision got us the right to get into court, and now we hope to finally secure that victory," says Damien Schiff, an attorney with the Pacific Legal Foundation, the nonprofit law firm that is arguing the case before the Supreme Court for a second time. He says that a favorable ruling could finally constrain a federal agency that routinely bullies land owners.

"The big picture is a dispute that's roiled the property rights and environmental law communities for half a decade. And that is the scope of the Clean Water Act," says Schiff.

The EPA and the Army Corps, which are the agencies that administer this law, have over the last several decades used their regulatory authority to radically expand what qualifies as "navigable waters" of the United States.

The Clean Water Act allows the EPA to regulate all of the country's "navigable waters," from rivers to lakes to streams to oceanic channels. But the definition of "navigable water" has steadily expanded since the act's passage in 1972. Farmers

like Curtis Martin weren't allowed to add a manmade lake that increased the biodiversity of his land because the EPA said it violated the act. John Duarte almost lost his farm in California's Central Valley after the EPA fined him more than \$30 million in restoration fees. Reason covered Duarte's story back in 2017.

The Supreme Court weighed in on the EPA's expansive authority to regulate land in a 2006 case, in which the agency had tried to stop a Michigan developer named John Rapanos from turning part of his 54-acre property into a shopping mall, even though it was more than 11 miles from the nearest navigable water. Because the land became swampy in the spring as the snow melted, it argued that Rapanos' development plan would destroy protected wetlands.

He sued, and a 5–4 majority vacated the ruling against Rapanos. But Justice Anthony Kennedy declined to join Justice Antonin Scalia's plurality opinion that would've further limited the EPA and Army Corps of Engineers' regulatory authority. Scalia wrote that the standards the government sought gave the EPA and Army Corps of Engineers jurisdiction over between "270 to 300 million acres of swampy lands—including half of Alaska and an area the size of California in the lower 48 States" and that landowners spent more than \$1.7 billion a year obtaining wetlands permits.

Kennedy rejected Scalia's reasoning and devised the "significant nexus" standard, which gave the government the authority to regulate the land if pollution would "significantly affect the chemical, physical, and biological integrity" of nearby navigable water. Kennedy's standard carried the day in the lower courts, but Schiff says it's far too ambiguous to hold any longer.

"A small ambiguity does not mean *carte blanche* to regulate anything," says Schiff, who acknowledges there's not always a clear boundary between water at the shoreline. The Sacketts' property, however, is nowhere near that boundary. "[The EPA doesn't] really see any need to have any sort of boundary-drawing problem. They think wetlands on their own, even wetlands that are de facto isolated from other waters, could still be regulated."

The EPA argues that it needs the power to regulate properties like the Sacketts' because human activity on nearby lands can have a detrimental effect on protected waters, like Priest Lake. They point to the Clean Water Act's authorization to regulate land "adjacent" to protected water. But how far does "adjacency" extend? That question was raised by Justice Neil Gorsuch in oral arguments when he asked the EPA's attorney whether a property three miles away from a navigable water could be considered "adjacent":

Gorsuch: So [the adjacent property] couldn't be three miles [away]?

Brian H. Fletcher [EPA Attorney]: I don't think it could, Justice Gorsuch.

Gorsuch: Could it be two miles?

Fletcher: That, again, when we start to talk about miles, that sounds too far to be adjacent—to reasonably be proximate to.

Gorsuch: One mile?

Fletcher: Again, I see where this is headed. (Laughter.) But, again, I think—

Gorsuch: So, if the federal government doesn't know, how is a person subject to criminal time in federal prison supposed to know?

Fletcher: So the agencies, in recognition of this problem, make available free of charge jurisdictional determinations as to any property....

Gorsuch: Their manuals, though, don't tell us the answer.

Schiff says that wetland conservation is an important aspect of protecting water quality but Congress simply didn't authorize the federal government to regulate them, as evidenced by the lack of the term "wetland" in the text of the Clean Water Act.

"Just because the feds don't regulate doesn't mean that state and local governments can't regulate," says Schiff, who points out that when the courts limited the scope of the act in the past, some states expanded their own water quality regulations.

Images of burning rivers can serve as dramatic reminders of the costs of uncontrolled pollution, but that doesn't mean that the federal government is the best entity to protect natural resources. In Florida, the Army Corps of Engineers has for years overridden local authorities to divert sludge from the state's largest lake into lagoons and estuaries, introducing toxic algae blooms that have wreaked havoc on the local ecosystem and introduced serious health hazards, ironically in possible violation of the Clean Water Act it's supposed to help enforce.

"A big, broad federal law is oftentimes not the best way to resolve environmental problems," says Schiff, "not just because it crowds out state and local efforts, but, perhaps more importantly, it crowds out private party efforts when you have the federal government threatening significant fines for any sort of activity that may affect waters and also making it much more difficult to do anything in terms of private conservation."

Schiff says he expects a ruling in early 2023. The more than decadelong ordeal has taken its toll on the Sacketts, who never completed work on the home. But if their case prevails for a second time in the Supreme Court, they'll not only have established the clear right for citizens to challenge powerful executive agencies in court, they'll have also established the right of property owners to improve their lands without exorbitant compliance costs and legal threats from the federal government.

"Most private property rights violations nowadays are because of environmentally motivated laws or environmentally motivated lawsuits," says Schiff. "And to fight back against that, you have to go straight to the statutes themselves."

EPA wants to accelerate lead pipe replacement in Connecticut, but timeline remains unclear

Connecticut Public Radio | By Michayla Savitt - February 1, 2023

The U.S. Environmental Protection Agency has launched an initiative to accelerate lead service line replacement in parts of Connecticut, New Jersey, Pennsylvania, and Wisconsin.

The Bipartisan Infrastructure Law dedicated \$15 billion in 2021 to replace lead pipes across America. But this move provides new technical assistance to communities to remove lead service lines, and access funding.

David Cash, the EPA's regional administrator for New England and its ten federally recognized tribes, said Hartford, Bridgeport, and New Haven all have old water infrastructure – but don't have resources to replace it. He said the EPA will work to find unmapped lead service lines in the state.

"We're also going to look at things like blood lead levels in children, that's an indicator that lead is a problem," Cash said. "It comes from sources other than lead pipes, it comes from paint chips, it comes from lead and soil."

Ten communities in Connecticut with the highest concentration of lead will be included in the initiative, Cash said, but there will be a process for identifying those areas.

The Biden Administration wants to replace every lead service line in the next decade. But Cash said it takes time to figure out where the unmapped pipes are located.

"It's not the easiest thing," Cash said. "You don't want to dig up all the streets at the same time."

"There is no safe level of lead and reducing all sources of exposure is critical," said Anne Hulick, Connecticut Director of Clean Water Action, an environmental advocacy group, in an email. She said that "it is imperative that we do so urgently and equitably, focusing on our most vulnerable residents."

Cash noted the agency will start with 40 communities across the four chosen states.

"These will be pilot projects," Cash said. "If these work really well, in getting the lead out faster, then we'll spread them to other communities all over the country."

Federal officials estimate there are six to ten million lead service lines throughout the country.

Elam Ives House, one of Hamden's oldest structures, once at risk of being demolished is now on path to restoration

Meghan Friedmann - Jan. 18, 2023 – New Haven Register

HAMDEN – Fifteen years ago, one of Hamden's oldest homes was at risk of being demolished.

But now, after sitting vacant for nearly two decades, it's finally being restored.

Built around 1790, the Elam Ives House is listed in the National Register of Historic Places. The South Central Connecticut Regional Water Authority owned it until last February, when private investor Bill Butterly III acquired the property, online town records show.

Butterly is a historic home restoration hobbyist who said his goal is to ensure the home resembles its original condition as closely as possible. The restoration process involves locating materials "consistent with the period of the house," such as historic doors and windows, Butterly said.

"We try to use antique materials to the extent they're available," he said.

As part of the restoration, Butterly plans to get the home's four fireplaces in working order and redo the kitchen and bathroom, he said. He will then rent out the house, he said.

Located at 95 Ives St., the house originally was built for Elam Ives, one of Hamden's early industrialists. Ives is credited with launching Hamden's hardware manufacturing industry and mechanizing "the production of carriage and harness hardware," according to a letter Preservation CT submitted to the RWA in June 2021.

The letter and a historical analysis of the property conducted by James Sexton were included in the RWA's application to sell the property, available on the agency's website.

James Ives, one of Elam Ives' sons, shaped Hamden through a number of projects, according to the analysis, which says he owned a water company, dammed the Mill River to create Clark's Pond and built various industrial buildings, including a factory across the river from the Elam Ives House.

A former Hamden Historical Society president previously told the New Haven Register the house was at the center of the 19th century historical village Ivesville.

The house caught local attention in 2004, when the RWA considered demolishing the property, sparking pushback from local officials and preservationists. At the time, the agency said the plan was meant to protect the watershed.

The demolition never took place. Instead, the RWA in 2007 gave Hamden control over the property through a licensing agreement, according to the RWA's 2021 application to sell the house.

Though the town was responsible for maintaining the Elam Ives House, it never completed any work over the course of the agreement, nor did it find a tenant for the property, the RWA's application says.

By 2021, the house was in a state of "advanced disrepair," per the RWA's application.

"Issues with the house include general dilapidation, structural decay, and unusable mechanical systems," the application says. "The roof is in disrepair and water has penetrated the building."

Mayor Lauren Garrett said historic preservation grants could have helped the town with projects such as restoring the Elam Ives House. But for years, Hamden did not have a dedicated grant writer, she said.

Now that it does, "we won't see as many things falling through the cracks like this," she said.

"It's really hard to dedicate funds to restoring a historic homes when we have so many other pressing needs," Garrett said. "I'm glad that this work is getting done, but I can certainly understand why it wasn't prioritized for so long."

The RWA ultimately got authorization to sell the Elam Ives House, which went through a public bid process, according to agency spokesperson Lori Vitagliano.

Selling the house was part of a broader plan to reduce RWA maintenance costs associated with owning homes, she said. That plan, which dates to the early 2000s, also involved 13 other properties, she said.

The RWA sold the Elam Ives House for \$25,000 in February 2022, Vitagliano said.

"It's our understanding the new owner is fixing up the house to be lived in again," she said, adding that Butterly previously has restored historic homes.

Deed restrictions also require him to seek RWA approval before implementing any major changes to the property, Vitagliano said.

Milder winters mean Connecticut's ticks are now active all year long

Connecticut Public Radio | By Michayla Savitt - January 18, 2023

Milder, shorter winters in Connecticut have all but eliminated tick “seasons” as state officials now say ticks are active year-round.

The state’s Active Tick Surveillance Program used to receive 50 tick specimens from December to March. But, in recent months, it’s gotten 800, according to Dr. Goudarz Molaei, who leads the program and is with the Connecticut Agricultural Experiment Station.

When temperatures drop below freezing, ticks burrow under leaves or snow and that cold weather can actually kill tick populations. But more mild winters can keep ticks from going dormant and also reduce mortality, leading to a population increase.

It also means they can present a bigger danger to people.

“Once the temperature increases to above freezing temperature close to 40 degrees [Fahrenheit], they come out and actively seek hosts,” Molaei said.

Average air temperatures in Connecticut have risen by more than two degrees Fahrenheit in recent decades, which can often be the difference between freezing and not freezing, according to the state Department of Energy and Environmental Protection. Winter seasonal temperature averages have experienced the biggest jump, according to the Connecticut Institute for Resilience & Climate Adaptation.

Jessica Spaccio, a Climatologist at the Northeast Regional Climate Center, said higher temperatures are being seen year-round in Connecticut and in the rest of New England.

“Winter is just another part of that,” Spaccio said. “Where we are seeing the long term trends showing that overall that the temperatures are continuing to climb due to anthropogenic climate change.”

NRCC projects temperatures in the state will remain mild for the remainder of January.

Long term, people in the Northeast will be infected with more tick-borne diseases, Dr. Molaei added, noting that Lyme disease has been detected equally among tick specimens in the winter and summer. Lyme, primarily carried by blacklegged ticks, has already been steadily rising in the U.S., and its prevalence nearly doubled between 1991 and 2018.

In addition, invasive tick species like the Asian longhorn tick, and Gulf Coast tick have been detected in the state, particularly in Fairfield County and New Haven County.

Dr. Molaei said it’s time for people to realize Connecticut is a state with pervasive tick areas, and that it’s incorrect to think that ticks go away during the winter – or that they’re not dangerous.

“There is no such thing that [in] winter time we are dealing with less ticks, or the ticks that we are having in winter times may not be able to transmit Lyme disease or other tick borne diseases,” Dr. Molaei said.

To prevent tick bites, the CDC recommends:

- Avoiding potential tick-filled places like high grassy or wooded areas
- Tucking pant legs into socks
- Walking along the center of wooded trails
- Checking your clothing, gear and pets for ticks upon return
- For pets, talking to your vet about prevention products
- Showering less than two hours after being outdoors
- Doing a full body check to search for ticks that may have bit

For information on submitting a tick to test for diseases or identification, visit the Connecticut Agricultural Experiment Station website.

Road salt blamed for elevated sodium levels in East Lyme water

by: Tina Detelj - Jan 25, 2023 - WTNH

EAST LYME, Conn. (WTNH) — East Lyme is warning residents who are on low-sodium diets after road salt caused sodium levels in water to jump.

Residents are warned when the levels reach 28 milligrams per liter. The public wells are at more than 40 milligrams per liter.

The criteria for private wells is 100 milligrams.

The town is requiring new developments in aquifer protection areas to use sodium alternatives. Public works crews are also being trained on how to pre-treat roads more effectively.

That includes the proper techniques of how to put the right amount of salt on streets, according to Ben North, a utilities engineer.

"They calibrate it to the lane mile to make sure they're not over-salting," North said. "They're trying to be economical, as well."

One well with elevated levels is near two schools and a community center.

New London is the first city to replace lead pipes with copper

by: Tina Detelj - Posted: Jan 27, 2023 - WTNH

NEW LONDON, Conn. (WTNH) – New London is the first municipality to have a lead pipe replacement program and the city is replacing those pipes with copper ones.

It's that distinction that landed New London Mayor Michael Passero an invite to the White House on Friday.

Mayor Passero was among the local leaders at the Accelerating Lead Pipe Replacement Summit held at the White House.

"It should be a right of every occupant of this earth and certainly of our country to have clean water," Vice President Kamala Harris said.

Connecticut is set to receive \$150 million for the replacement of lead service lines under the federal bipartisan Infrastructure Act. New London estimated 2,450 lead service lines need replacing.

The city has a total of 6,500 service lines, and historically, the lead lines are in homes built before 1986.

Even though lead paint, dust and contaminated soil cause most of the lead poisonings in the country, 20% of exposures are through drinking water.

"There is no safe level for lead, so we want to see it all removed and I think this is an excellent program and an excellent way to do it," said Joe Lanzafame, New London Director of Public Utilities.

The project will take about three years to complete, and there will be no direct cost to the owners of the property who get the new pipes into their homes.

Most of the \$36-million cost is expected to be paid with state and federal funding.

"The remaining 20% will be covered through a low-interest 2% twenty-year loan," Lanzafame said.

The city says the impact on water and sewer rates which could go up would be minimal.

Increased coyote sightings in West Haven bring advice from CT officials

New Haven Register – Jan. 18, 2023

WEST HAVEN - Officials have some tips for residents who want to dissuade coyotes from lingering around their homes this winter and, unlike with the infamous cartoon coyote, they don't require anvils or catapults.

Amid increased coyote sightings in the city, a wildlife biologist with the state Department of Energy and Environmental Protection said nesting coyotes can be harassed out of denning locations, including by playing loud music.

"You can also close off the den space and there can be some highly scented human scents like soap: sometimes that intense smell is enough. You can blow air horns at them or throw objects," said Geoffrey Krukar, a DEEP wildlife biologist.

"Make it uncomfortable for them to be there, and a lot of times that will be enough to discourage them.

During their mating season, which usually begins around January and lasts until March or April, coyotes will seek an area to form a den. "Coyotes are typically monogamous. A pair will form and stay together for years.

During the months of usually January to March they'll start defending territories and kick out their young from the previous years and look for a place to make a den. They will often dig their own den or take over another animals' den and then start to have their pups, usually in April sometimes a bit later," Krukar said.

Krukar said ordinarily it is around then that DEEP receives complaints about coyotes, but by then it likely is too late. "We get a lot of complaints because people realize there's coyotes denning under their deck or shed and they become protective. Certainly they can call us for advice, but in most cases I try to encourage people to locate the den before they start having pups," he said. "Once they've had the pups I try to encourage people to let them stay."

Krukar said coyote conflicts become more likely once they are protecting their cubs and the dens in which they reside, whereas coyotes are likelier to recognize an area is inhospitable for denning and will move elsewhere before having their cubs.

He said cubs will begin to emerge from their dens and will stay at a rendezvous point for when their parents come back from hunting. To prevent conflicts, Krukar said residents must be mindful of their pets.

"Make sure to not let pets roam free. Coyotes will see big dogs as a competitor and see smaller cats and dogs as a food source," he said. That includes roaming around backyards, as coyotes are high jumpers.

"It's important to not feed coyotes, intentionally or unintentionally. People see an increase in coyote activity when they leave food in bird feeders or leave pet food outdoors for stray cats which attracts cats, which become a food source for coyotes," he said. When walking dogs, Krukar said pet owners are encouraged to carry large objects such as walking sticks, which can be waved in the air to make a person appear larger.

"If there's a situation where coyotes become very bold, people should report an aggressive coyote," he said.

"That's a concerning behavior when they approach too close, within 10 feet." John Triana, real estate manager for the Regional Water Authority, said there are a number of critters including coyotes on RWA properties such as Maltby Lakes, which touches on residential areas in both West Haven and Orange.

However, RWA plays no role in enforcing their population. "The wildlife out there comes and goes as freely as they want: all critters from Canada geese to insects to coyotes," he said. "Whenever I've seen coyotes on our property, they've never been a problem and they meander away. Sometimes they look thin and mangy and other times like the healthiest dog you've ever seen." Although deer hunting is allowed on several RWA locations, Triana said, it does not apply to other wildlife such as birds, squirrels or coyotes."