

Invasive Plants Council
Tuesday September 14, 2010
2 pm, Valley Laboratory
Windsor, CT

Council members present: David Goodwin, Bill Hyatt, Paul Larson, Lou Magnarelli, Les Mehrhoff, Mary Musgrave, David Sutherland

Others Present: John Blasiak, Nancy Cohen, Donna Ellis, Bob Heffernan, Nancy Murray, Logan Senack, Penni Sharp

1. Musgrave called the meeting to order at 2:06 pm.

2. The minutes for the 6/08/10 meeting were reviewed

Senack noted that the some copies of the draft minutes had incorrectly numbered pages and will correct the error for the final version. Larson moved (second: Hyatt) to approve the minutes as submitted. **The Council decided to approve the minutes.**

3. Draft of Annual Report

Musgrave distributed a first draft of the annual report. The Council discussed whether or not to include an attachment of DEP accomplishments as in past years. The group decided to include a list of DEP accomplishments. Musgrave asked Senack to look through the old minutes and prepare a list of significant accomplishments.

David Goodwin arrived at 2:15 pm.

4. Report from nominating committee

Larson reported that the nominating committee has not met since the last IPC meeting in June, but will meet before the November IPC meeting.

5. Update from Invasive Plant Coordinator

Senack updated the group on some of his recent activities:

a. An aquatic invasive plant poster display has now been completed. Two copies of the display have been produced. One will be stored in Storrs and the other will be stored in Hartford at DEP. The displays will be used at boat shows, trade shows and other events for outreach and education about aquatic invasive plants. Related organizations may be able to borrow the displays for outreach at other events.

b. Senack and Ellis thanked Magnarelli for inviting the Connecticut Invasive Plant Working Group (CIPWG) to the 100th annual Plant Science Day in Hamden, CT in August. Ellis and Senack attended with an exhibit and the new terrestrial plant display. The exhibit received many visits from interested attendees.

c. A new population of mile-a-minute vine has been found in Sprague, CT. The discovery of this population raises questions about the distribution of the species in Connecticut because there are no known sources of mile-a-minute within at least 20 miles of the site. The population is large and located on a sand bar in the Shetucket River. This location is of concern because the ability of seeds to float downstream and establish new populations. An undiscovered upstream source population on the Shetucket River is suspected.

d. Senack provided additional information about mail-order nurseries and the prohibited invasive plant list. Currently, there is no mechanism to prevent someone in Connecticut who wants a Connecticut banned invasive plant from ordering it from out of state through mail order. Some companies post notes or warnings in their catalogs or on their websites explaining that some plants may not be shipped to certain states if the sale of the plant is prohibited by state law. Senack will continue to collect information from other states.

6. Disposal of invasive plants

Senack reported back to the group about disposal options for invasive plants. Large incinerators generally only accept waste from municipal waste streams and not from the general public. Some states have published limited information about the disposal of some invasive plants but a comprehensive solution has not been developed.

Senack asked the members of the National Invasive Species Awareness Week listserv for any information they might have on safe and effective disposal of invasive plants. Many listserv members responded with helpful suggestions and ideas. Many listserv members also responded with requests to see the final document once it is complete. Senack will continue working on this project.

7. Language referring to USDA PLANTS database for list nomenclature

Senack was asked to draft language for the invasive plant list that would indicate that the USDA PLANTS database was the source of the scientific names used for the plants on the Invasive Plant List. Senack provided copies of the language (below) to the group. The Council agreed with the language and Senack will add the wording to the invasive plant list so that it can be distributed.

USDA PLANTS Database Language:

“The taxonomic names used by the Connecticut Invasive Plants Council on the Invasive Plant List are consistent with the names used by the United States Department of Agriculture PLANTS database, accessible online at www.plants.usda.gov.

The Council also maintains a list of scientific name synonyms for reference purposes.”

8. Hardy kiwi occurrence in Avon

Senack updated the group on the status of the hardy kiwi (*Actinidia arguta*) infestation in Avon and distributed a few photos of the site, which was originally reported by the Connecticut Department of Transportation (DOT). After the June 8 IPC meeting, Senack and several others visited the site to observe the plants. The group found that the plants had covered a large portion of a hillside near a DOT road reconstruction project. The plants were producing a small number of fruits, but the seeds inside did not look like they had fully developed. Senack visited the site again in September to see if the fruits had matured further, but they had already fallen off the plants and were no longer present.

DOT plans to control the plants with a herbicide application as part of their work on the site.

9. Bamboo issue and letter from Attorney General Blumenthal

The Invasive Plants Council received a letter from Atty. Gen. Blumenthal asking the Council to review a bamboo issue in Seymour. Musgrave distributed copies of the letter and a CNLA position paper on bamboo.

Ellis reported that she had received a number of inquiries from property owners in the past who were concerned about bamboo in their neighbors' yards invading their own properties. She, along with several other people, was recently contacted by a property owner in Seymour about a running bamboo that had become a problem in a yard after being planted in a neighbor's yard. The property owner eventually wrote a letter to Atty. Gen. Blumenthal asking if something could be done about the bamboo problem. Ellis provided background about the situation and photos from the property owner about the plants in her yard. The group discussed the situation.

Musgrave asked if there was regulation about public nuisance orders in Connecticut. Ellis responded that she did not know about specific regulations in Seymour, and that the property owner tried to resolve the situation through the town but was unsuccessful.

Blasiak noted that in the material sent by the homeowner, she noted that a two foot deep barrier is needed to control the plant but also said that she only installed a one foot deep barrier. Blasiak suggested that the homeowner already knows the best solution to controlling the plants but has not undertaken it. Murray responded that she thinks the homeowner's frustration is because she wasn't the person who planted the bamboo but it is her yard that is being affected by the plants.

Larson reported that he also spoke to the homeowner and suggested that she take up the case in a civil court. She said that she was looking to take the case to court, but wanted to find an attorney who would take the case as a gratis case.

Murray reported that another person was looking to see if another town would take up the bamboo issue under nuisance orders. The group discussed possible courses of action for aggressively growing woody rhizomatous plants that spread from neighboring properties, including civil lawsuits or public nuisance orders.

Senack distributed general information about bamboo species that are included on invasive plant lists in other states and known bamboo occurrences and issues in Connecticut.

Mehrhoff asked whether the 169 towns of the state would be able to decide individually what they wanted to do about bamboo if the Invasive Plants Council didn't act on the plant. Goodwin also noted that this was a good point. Mehrhoff stated that he thinks the bamboo issue needs further biological evaluation. The Council discussed these issues.

Heffernan said he sees this as an opportunity for the industry to educate customers about how to properly plant bamboo. He said that bamboo is starting to appear as a potentially valuable nursery crop, though not on the same level as barberry and euonymus, as people start to find more uses for it and because it is resistant to deer. Heffernan noted that Mehrhoff may be right in that the only way to stop a town from listing bamboo itself is to list it as potentially invasive at the state level. Larson asked if some sort of notice or tag could be attached to the plant when it is sold that would alert people to the potential for invasiveness. Heffernan said the industry doesn't believe this plant rises to the level of an invasive plant but that a tag or other education campaign could certainly be taken up.

Murray asked if herbicide control worked on bamboos. Heffernan replied that in the industry Roundup is reported to work well for control.

Sutherland asked if there was any other advice the Council could give the Seymour property owner about bamboo, since the Council usually considers only species that spread into natural habitats as having the potential to be listed on the invasive plant list and the bamboos discussed did not seem to fall under that description. Magnarelli suggested that this situation be treated similarly to a situation where one homeowner buys a tree that becomes a nuisance to a neighbor. Blasiak noted that since the Council only can recommend that an item not be sold, even if the Council recommends banning the sale of bamboo it will not help the homeowner who brought up this situation.

Sutherland and Magnarelli reminded the Council that they needed to respond to the Atty. General's letter. Musgrave will draft a response and will send the letter to the group for approval by email vote so that a response can be sent before the November Invasive Plants Council meeting. Murray asked if the information could be sent to the concerned homeowners directly as well.

Mehrhoff asked the group if everyone could avoid using phrases like "invasive plant community" in print, as it creates the impression that there is an adversarial relationship among different groups.

10. CIPWG symposium, October 14, 2010

Ellis distributed brochures and programs for the Connecticut Invasive Plant Working Group (CIPWG) Symposium, which will be held at UConn on October 14, 2010. Ellis provided the group with a summary of the planned events for the day, which will include a keynote presentation by Bernd Blossey from Cornell University and other guest

speakers. Musgrave will also give an update of the activities of the Invasive Plants Council over the last two years.

11. Other old or new business

a. Enforcement of the invasive plant law

Public Act 10-20, which gives DEP Environmental Conservation Officers the authority to enforce Conn. Gen. Statute 22a-381d, becomes effective on October 1, 2010. Hyatt described a few instances this summer where cultivars of species listed as invasive by the Invasive Plants Council and banned by the Connecticut legislature were still being sold in the state. In these instances, DEP worked with CNLA via Bob Heffernan to try to convince the sellers to stop selling those species. Hyatt noted that this is the mechanism DEP plans to use in future instances instead of rushing to enforcement and fines. Hyatt also noted, however, that if someone says “no” to Heffernan’s request to stop selling a banned plant, then there is currently no effective way to enforce the law. Hyatt proposed modifying section 22a-381d of the Connecticut General Statutes (CGS) to give DEP the authority, in consultation with the Invasive Plants Council, to implement regulations enabling the sale of specific sterile cultivars of prohibited species in Connecticut. For prohibited species, only those cultivars so authorized would be legal for sale. Hyatt included a description of the problem and recommended solution in a document distributed to the Council, and added that this would also be consistent with similar invasive species laws proposed in New York State.

Magnarelli indicated that the group usually gets the backing of the nursery industry before moving forward on an unclear issue like this one. Hyatt said from previous conversations he understood that Magnarelli thought cultivars were not legally banned. Hyatt explained that he wanted to address both the concerns for the environment and the concerns of the industry.

Blasiak suggested that if someone had passed a law banning the sale of all dogs in the state, it would not be legal to sell a certain type of dog in the state just because it was a specific kind of dog. Magnarelli stated that he thinks the statute is silent on this issue. Goodwin asked what would happen if someone were to get arrested for this issue and if the charge would hold up in court. Hyatt expressed concern that a law that is unclear may not be enforceable in a court, that the October 5, 2007 letter from Magnarelli to Attorney General Blumenthal identified the issue as unclear, and that the January 15, 2008 reply from Attorney General Blumenthal assigned responsibility for clarifying interpretation of the law to the Invasive Plant Council. Musgrave noted that the barberry cultivars recently addressed at the June 8 meeting are not on the banned invasive list and so would not be affected by this proposal.

Heffernan described a situation where a person who runs a well-known organic nursery in the state was selling a variegated cultivar of Japanese knotweed this summer. The seller has never seen the variegated form of knotweed spread and Heffernan said this cultivar behaves differently from its parent species and is not

invasive. Heffernan suggested that one problem with Hyatt's recommendation is that he thinks it would take years to prove that some cultivars are sterile. Heffernan also stated that he felt the word sterile goes too far; he felt the change should ban specific cultivars rather than allowing specific cultivars, because cultivars are produced so often and so frequently. Hyatt replied that the word "sterile" could be changed to something like "safe" to allow greater discretion. Hyatt also acknowledged that this proposal would place the burden of proof on those who wish to demonstrate that a cultivar is safe.

Hyatt clarified that the change would only apply to cultivars of species that are banned by the legislature and would provide an opportunity for cultivars that could be shown to be sterile to still be sold in the state. Heffernan asked about the process that would be needed to get a sterile cultivar approved for sale. Hyatt responded that one interpretation of where things stand now is that no cultivars of banned plants can be sold, so this would be an opportunity for the industry to have sterile cultivars back in sale going forward. Sutherland noted that a number of plants had already been excluded from a recommendation to be banned because of their economic importance. Sutherland further stated that his preference is for the Invasive Plant Council to take the position that all cultivars of banned plants are illegal without exception.

Mehrhoff stated that he still thinks the law only focuses on the species level.

Goodwin asked if there was an appeal process for cultivars of banned plants. Hyatt suggested that the process would need to rely on the best available scientific evidence to determine if a cultivar was safe. Details on the process would have to be worked out.

Musgrave suggested that the group revisit this issue at the November meeting.

Magnarelli left the meeting at 3:57 pm.

Hyatt asked that this issue be resolved as soon as possible because DEP's enforcement authority takes effect October 1, 2010. Heffernan will bring DEP's proposal to the CNLA board and will have a position from the industry at the next meeting.

Murray noted that she values the relationship with the nursery industry and appreciates the fact that she can call on Heffernan for assistance on these issues. Murray also reminded everyone that the goal is not fines from enforcement action; the goal is protecting the environment.

b. New business:

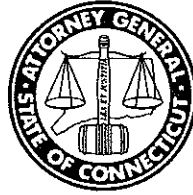
The group briefly discussed issues about the spread of invasive plants along roadsides and the Department of Transportation's involvement with invasive plants. Mehrhoff agreed that working with DOT is a great idea.

12. The next meeting is scheduled for November 9, 2010, 2-4 pm, at the CAES Valley Lab in Windsor, CT.

13. Adjournment

Mehrhoff moved (second: Sutherland) to adjourn the meeting. **The Council decided to adjourn the meeting at 4.06 pm.**

RICHARD BLUMENTHAL
ATTORNEY GENERAL



Office of The Attorney General
State of Connecticut

August 9, 2010

Dr. Mary Musgrave, Chair
Invasive Plants Council
Department of Plant Science
University of Connecticut
1376 Storrs Road, Unit 4067
Storrs, Connecticut 06029

Dear Dr. Musgrave:

I am writing to request a review by the Invasive Plants Council of the attached documents which I received from Caryn Rickel of Seymour, Connecticut and consideration of designating the running bamboo tree as an invasive species.

As the attached documents indicate, the running bamboo aggressively grows large rhizomes underground which can cause significant damage to affected property and plant life. Some cities have defined this plant as a nuisance.

I appreciate the council's attention to this request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard Blumenthal".

Richard Blumenthal

RB/RFK/sk

Attachments



University of Connecticut
College of Agriculture and Natural Resources

Department of Plant Science

September 25, 2010

The Honorable Richard Blumenthal
Attorney General
Office of the Attorney General
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120

Dear Mr. Blumenthal:

I am writing today in my capacity as chair of the CT Invasive Plants Council, in response to your letter of August 9, 2010, in which you asked the Council to consider designating running bamboo as an invasive species. The Council considered this matter during its recent meeting on September 14.

The aggressive growth of bamboo in landscape installations requires special care to contain the growth of the rhizomes by means of a substantial barrier material. The CT Green Industry is mounting a special trade and public education campaign on bamboo to avoid problems such as Ms. Rickel's in the future.

The Council was of the opinion that running bamboo does not meet the definition of an invasive plant, because it does not occur except in immediate proximity to a human planting of it. The plants of concern to Ms. Rickel do not appear to be spreading unaided through minimally managed areas, which is a key hallmark of an invasive plant.

Thank you for calling this matter to our attention.

Sincerely,

Mary E. Musgrave
Professor and Head
Department of Plant Science and Landscape Architecture
Chair, Connecticut Invasive Plants Council

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