

September 22, 1997

Conservation Commission
Town of Falmouth
Town Hall Square
Falmouth, MA 02540

Dear Honorable Board Members,

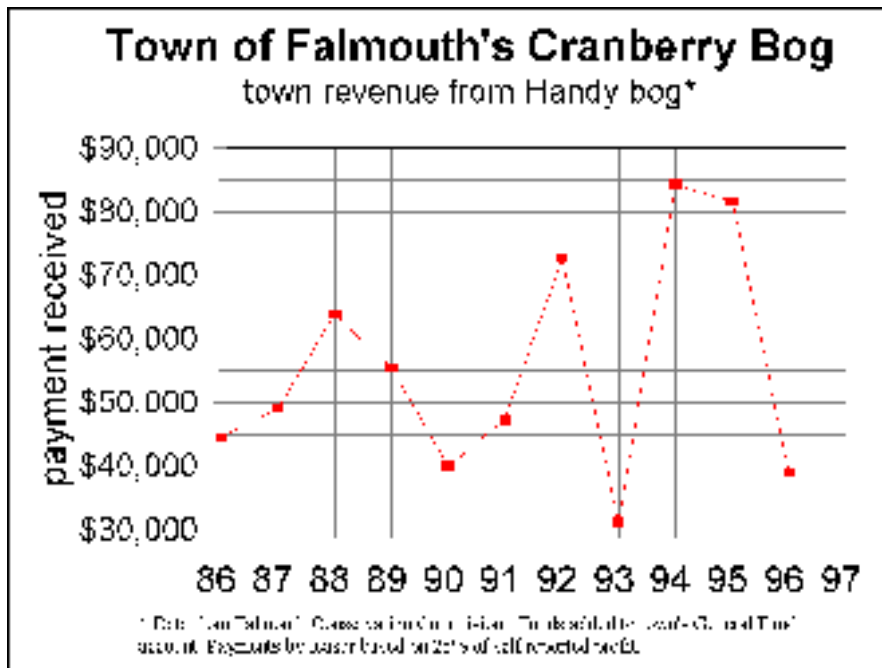
Perhaps when it may seem to you that environmental issues on Falmouth's Cranberry Bog could not be more complicated, I bring you the following news. I wish to inform you that the Buzzards Bay Projects' Cranberry Bog Initiative has been funded through the Massachusetts Department of Environmental Protection's (DEP) Section 319 Non-Points Source Pollution Program (see attached letter dated September 4, 1997 by Elizabeth McCann). This proposal was ranked 2nd in the statewide competitive grant program.

You may recall that last year the Buzzards Bay Project prepared this proposal with the support of the Town of Falmouth Conservation Commission (see attached letter dated October 10, 1996). In the proposal we included the town-owned cranberry bog on the Coonamessett River as a demonstration site for remediation. This site is currently leased to a cranberry grower. The original proposal was submitted to the Massachusetts Executive Office of Environmental Affairs Watershed Initiative office, but was not funded. When the new funding became available at DEP, I resubmitted the application with favorable results.

Enclosed is a complete copy of our proposal, and a one page **draft** fact sheet summarizing the initiative. As you know, the purpose of our initiative is to inventory and help remediate cranberry bogs where the owners or landusers do not have the means of impounding water on bogs. This impoundment following pesticide application is required to meet state and federal pesticide regulations. Pesticide manufacturer's application instructions often require impoundments from one to several days before release into surface waters to prevent toxicity to aquatic life. These requirements are impossible to meet for those bogs where a stream or river runs through and is part of the bog since a heavy rain will wash pesticides into the stream.

From our perspective, the town owned bogs are an ideal demonstration project because the site is probably one of the largest unconfined stream-bog systems in Massachusetts. The Coonamessett River also contains an important herring run. In addition, the Town of Falmouth has received

between \$32,000 to \$84,000 annually in recent years as income from the operation of the bogs (see Fig. 1). This money could be used to meet grant matching requirements for the bog upgrade. (Alternatively, required match money could be solicited by the Board at town meeting.) Finally, in terms of spending public taxpayer dollars, I believe it is also more desirable to spend grant money of this kind on publically owned property.



Regrettably, this news comes to you at a very awkward time. I have followed closely the newspaper reports about the EDB contamination of berries in Falmouth's and other area bogs, and concerns about the bogs potentially being closed. However, despite the fact that the future of these bogs is uncertain, I also need to move forward on identifying a demonstration site for this initiative, and I must bring to the Commission's attention to this grant award and the opportunity for the Town to minimize environmental impacts from the normal operation of these lands as cranberry bogs.

The Falmouth Conservation Commission has several options to consider regarding participation in the Buzzards Bay Project Cranberry Bog Initiative. It is important to keep in mind that the Town of Falmouth's Conservation Commission purchased the 60 acres of bog as part of a larger land purchase under the State's Self-Help Program. You own the land, are responsible for ensuring that the land is managed appropriately, and you will decide its future. Because of the source of state funds used to by the parcels to which the bogs belonged, this land must be kept in "conservation use¹." There is considerable latitude in what the state considers allowable "conservation uses," including naturalized open space. For example, the Conservation Commission could vote on its own and decide not to renew the lease on the bog when it expires in 2002, and allow the bog to revert to natural wetland, without approvals from any state agency or local legislative body. Obviously the

¹ Self-Help Act (M.G.L. Ch. 132A Sections 2 and 11) regulations state "Properties shall be kept for conservation use. Natural Resource management and development are encouraged but shall be consistent with MGL Ch. 132A..." (301 C.M.R. 7.08 (1)). And also: under 7.09 Conversion: "Any property so acquired shall not be wholly or partly converted to other than conservation or passive outdoor recreation uses without the approval of the Director [of the Self-Help Program].... Said Conversion must also be in compliance with Article 97 of the Amendments to the state Constitution."

Commission would be unlikely to ever take such action without broad public support because of loss of income to the town and impacts to the local economy. Should the Conservation Commission propose to use or lease the land for some purpose **other than conservation use**, it would likely require written authorization by the Director of the Self-Help Program, approval by town meeting, and a 2/3 vote of the state legislature.

Another avenue the Commission could follow is to choose to not proceed with isolating the Coonamessett River from the bog until legal and environmental issues are resolved. Should resolution of this matter be prolonged, the Buzzards Bay Project would out of necessity select another demonstration site.

The final option would be to move forward with this initiative and isolate the Coonamessett River from the bog and begin building local support and work toward a possible Spring town meeting article. Obviously until recently, this appeared the likely course of action by the Conservation Commission and the one most desirable for all parties involved.

Of course, unresolved issues regarding EDB contamination in cranberries have left the future of the bogs uncertain. Regrettably, I must press the Falmouth Conservation for some indication of the direction it wishes to take because DEP is expecting a Memorandum of Understanding to be developed with the Town of Falmouth sometime this Fall. Should the Conservation Commission not be able to proceed with this project for reasons beyond your control, I must work to identify some other public or privately owned bog to use as a demonstration project for this grant.

Again, I apologize for the unfortunate timing of my request to you, and I will be happy to meet with you or any other town officials regarding this matter at your convenience.

Sincerely,

Joseph E. Costa, Ph.D.
Executive Director

cc: Board of Selectmen
Peter Boyer, Falmouth Administrator
Jeff Lafleur, CCCA
Brian Handy, Handy Trust

attachments

JEC/jec/Cranfalm.wpd