

The Lake Reporter

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Federal Tax Breaks for Land Preservation Renewed

By Stephen Lewandowski,
with thanks to Julie Sherwood & Messenger Post Media

A major incentive to protect land that expired at the end of 2009 was recently restored by an Act of Congress signed into law by President Obama. Landowners who donate a voluntary conservation easement permanently protecting natural resources on their land have until December 31, 2011 to make use of a significant tax deduction.

The tax incentive applies to a landowner's federal income tax, raising the deduction a donor can take for a voluntary conservation easement from 30 percent of annual income to 50 percent. Farmers may deduct up to 100% of their annual income. Previously, donors could spread deductions over six years; now deductions can be spread over 16 years.

Non-profit organizations such as land trusts are usually the beneficiaries of such donations. The Finger Lakes Land Trust (FLLT) active in the Canandaigua Lake area has, in two decades, protected thousands of acres of land, held in the form of nature preserves and conservation easements on working farm and forest land.

Land Trust Executive Director Andrew Zepp welcomes the restored tax incentives, "Everyone wins when thoughtful landowners conserve their land in this way, protecting wildlife habitat, clean drinking water, scenic landscapes, and productive agricultural lands."

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ARTISTS SAY: REMEMBER OUR LAKES

"Let us not forget our local trusts and duties...
Let us especially remember our lake and its shores."

In recent years, the locally well-known landscape artist of the turn of the 20th century Charles Wader (1849-1918) and his student Fred Crandall have been receiving attention due to Mrs. Anne Peacock-Jacobs' interest in their work. Ten years ago, a major display of Wader's work and associated paintings at the Lower Mill Gallery in Honeoye Falls drew crowds, and in 2010, Mrs. Jacobs curated a display of Wader's more unusual work at the Wood Library in Canandaigua.

Both Wader and Crandall painted local scenes and almost invariably included water, whether Sucker Brook, the Lake or the Outlet, in their paintings. Many of their paintings are in family collections in the Canandaigua area. Though they portray the natural beauty of the area, their paintings can also be read as documentaries of local life, before the advent of the automobile, power and telephone lines, and permanent cottages. Their paintings show temporary structures and tents pitched on the shore as the means of enjoying time at the lake.

Other Finger Lakes have also been attractive to artists. Skaneateles and Owasco Lakes attracted the artist John D. Barrow (1824-1906). A large collection of his beautiful paintings can be seen displayed in several rooms behind the Skaneateles Library. It's well worth a trip from Canandaigua. Too bad that Wader and Crandall don't have a similar permanent display of their lake paintings in Canandaigua.

Barrow was asked to deliver a Centennial Address in Skaneateles in 1876. He said, "Let us not forget our local trusts and duties...Let us especially remember our lake and its shores. May we all do something so that after another hundred years, our successors shall meet together and rejoice and thank us for what we have done."

Will our successors rejoice at what we have done
for our lake?

Message From the Chair

By Lynn Thurston

Some people set goals as they enter a new year, often called resolutions. To us, few resolutions are as important as those we make to preserve and protect our watershed. As we enter 2011, we'd like to share three important resolutions we have defined that, hopefully, are worthy of your ongoing support.



1. We will face the facts. While our sister lakes that are most comparable to Canandaigua Lake in terms of water quality (Keuka and Skaneateles) are experiencing improvements in water quality, we are not. According to Professor John Halfman, phosphorous loading, unless significantly reduced, will continue to degrade the water quality of Canandaigua Lake (Professor John Halfman and Kerry O'Neil, "Water Quality of the Finger Lakes, New York: 2005-2008", Finger Lakes Institute, March 2009).

Professor Bruce Gilman points out that in 2009, the phosphorus level in Canandaigua Lake dropped to its lowest level on record, good news since the level had risen 40% over the first 13 years of tracking which began in 1996. But Professor Gilman, who is a Professor of Environment and Conservation at Finger Lakes Community College, worries that weather conditions probably factored into the water testing results and that the health of the lake is looked at by measuring trends and long-term results, not one year. Effectively, one

year does not reverse a trend showing a 13 year decline.

We have an issue we must address by reducing phosphorous and sediment run-off from agricultural land, improper disposal of organic wastes, use of lawn fertilizers, stream bank and nearshore/shoreline erosion, and other land use practices that can degrade water quality. Projects we support this year will focus on these activities, including support for the continued adoption of steep slope legislation, increased environmental education, and smart growth.

2. We will define an improved strategy to engage the business community. We have not been as successful as we'd like to be in engaging the business community in our efforts and, yet, their economic success is heavily dependent on the health of our watershed. We need a brand new strategy to attract their support, and this is a key project we will develop and implement in 2011.

3. There is a great deal of discussion about drilling for natural gas in the shale of the Finger Lakes region using a technique called hydro-fracking. We will continue to partner with other organizations to ensure every effort is made to protect the water quality of our region's lakes and rivers. This includes continuing to strengthen our partnerships with the Watershed Council, the Finger Lakes Land Trust, and others.

We value your support and acknowledge you probably have your own New Year's resolutions that embrace a more sustainable lifestyle, along with new ideas for preserving and protecting our watershed. As always, we welcome your ideas, and if we can help you implement your New Year's resolutions, please let us know. As we enter 2011, we have our work cut out for us. We appreciate your continued support and wish you a healthy, happy, watershed-friendly new year.

-Lynn Thurston

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CLWA believes that the long-term well-being of Canandaigua Lake and its watershed require land to be conserved. "The public benefits from conserved land in ways that are difficult to quantify but real nonetheless. We support FLLT's goal of protecting the natural integrity of the Finger Lakes Region," says CLWA President Lynn Thurston.

"We encourage our members to investigate the benefits provided by cooperation with the Finger Lakes Land Trust," CLWA Consultant Stephen Lewandowski adds. More can be learned about the Finger Lakes Land Trust through their website www.fllt.org or by phone (607) 275-9487. 

Letter to the Editor

Dear Neighbor,

Fill a clear glass with water from your kitchen faucet...hold it up to the light...take a long look at what you have...

You can assume that what you are holding is safe to drink because you have a water authority that says it is, or you have a well that has been tested and proven to be safe for you to drink from;

You can assume that you have enough of this water to drink, cook with, bathe, clean your children, clothes, and home, wash the dog, water your garden, etc.;

You can assume that your water bill, if you receive one, will be less than \$60.00 per month, or, \$2.00 per day for an average family of four (think about how many gallons you flush down the drain every day for that two dollars);

You know that what you are holding is an absolute necessity for life. This fact will not change. The previous assumptions, however, could change. If the possibility that this change would occur within the next five months, would you want to know about it? At issue is hydrofracking, a method of extracting natural gas from shale deposits found in our region. *(From the Editor: please see related article about hydrofracking on page 4)

In early December 2010, Governor Paterson issued an Executive Order temporarily prohibiting new drilling permits using the hydraulic fracturing method in New York State effective through June 1, 2011. The Executive Order requires New York State to more thoroughly review the environmental impacts of the 'fracking' process, chemicals involved, percentage of error and contamination, and "disposal" or reclamation of the chemical laden waste water.

If this process, "slick water hydraulic fracturing," is a term you have never heard of, it is in the best interest of you, your family and friends to take a few minutes to search out information about the risks involved. This is NOT the same process of natural gas drilling that has been done in our region in the past. Slick water hydraulic fracturing requires millions of gallons of water per well and thousands of gallons of toxic chemicals per well. There are plans for tens of thousands of wells in the Southern Tier, including the Finger Lakes area.

It is vital to become as well informed as possible. Attend one of the many talks and film screening about slick water hydraulic fracturing that are being hosted throughout our

area. If you own land, seek legal counsel before you sign any document which surrenders your control over your gas, oil, wind or water rights. If you get your drinking water from a well, have your water tested and keep a record of the test results. Call your local, state and federal representatives or write them a letter. Have your family and friends do the same.

As a resident of New York State, you are living in one of the largest and most beautiful sources of fresh water in the world. If you thought the protection of this resource would never be your responsibility, you were wrong. Slick water hydraulic fracturing will impact us all, including you. As your neighbor who cares about our quality of life and health of us all, I ask you to become informed and get involved to ensure that slick water hydraulic fracturing is not allowed in New York State. We have five months.

Sincerely,
Kathleen Weishaar
Canandaigua, New York

*Our condolences
to the family of Rodge Case,
lover of hunting and fishing
on Canandaigua Lake*

Donations to CLWA in memory of
Rodge have been made by:

*Bertha Conyne
Charlotte Scott
Margaret Gurler
Marcia Wilkin
William A. and Rebecca Levine
Eleanor Parfitt
David Levine and Kimberly Kern
Robert and Melanie Eisenberg
Jane Ogden
Bruce and Anne Kennedy*

Water Resources and Natural Gas Production from the Marcellus and Utica Shales

By Edith Davey

Introduction

The prospect of extensive gas well drilling in the Marcellus shale formations New York has raised both hopes and alarms. Anyone who has been paying the least attention knows the national need for clean energy resources. The income generated by employment opportunities, leasing of land, and royalty payments is more than welcomed. Municipalities anticipate increased tax revenues and economic activity. All of these are very real benefits. The alarms are also real and must be carefully considered as these impacts may remain long after the wells are depleted and closed. Water quality protections and land use concerns are the primary focus of discussion in the Canandaigua Lake watershed. As many of the industry procedures were established in Texas and Pennsylvania, the history of drilling there is instructive.

What and where are the Marcellus and Utica Shales?

Marcellus Shale is a 350 million year old rock formation containing significant natural gas resources generated by organic matter deposited in the sediments when the shale was formed. Utica Shales are present in New York and extend into Quebec. Interest in drilling the Utica formation has been increased by the current exploration of the Marcellus formations.

Why is there interest in drilling at this time?

Two reasons: wellhead prices for gas have risen sharply. Although the economic downturn has dampened demands somewhat, prices are still substantially higher than ten years ago. A new application of directional drilling allows an initially vertical drill hole to be turned to 90 degrees and penetrate long horizontal distances through Marcellus Shale bedrock. Hydraulic fractures are then created at intervals from the horizontal section of the borehole to contact a larger number of the natural vertical fractures in the rock. This hydrofracturing (also called hydrofracing) process produces a far greater volume of gas than the conventional vertical drill hole.

What are the Water Resource concerns?

Drilling Water Supply

Gas well drilling is a water-intensive process. Industry estimates quote the use of 3 million to 8 million gallons of water in drilling each well. According to some sources, about 32,000 wells are projected to be drilled in New York. Supplying the water without degrading or diminishing local water resources is critical. Where groundwater aquifers are tapped (Texas) limits for withdrawals during periods of low rainfall are observed. Withdrawals from large lakes such as Seneca Lake (volume of about 4 trillion gallons) are considered by industry sources to pose less of a problem. Withdrawals from smaller streams (Pennsylvania) have been damaging during low flow conditions. Minimizing hauling distance is a concern.

Disturbance of Water Sources

Local and state authorities in some areas have required setbacks of drilling sites from streams and from drinking water sources. This is listed as a "negotiable" issue by industry publications. Significant disturbances of small watersheds and streams on farms and in forests as heavy equipment and supplies are moved around on fields and rural roads have been experienced.

Substantial amounts of water are lost to the natural water cycle. 82% of hydrofrac water remains underground forever. For one 3 million gallon well, that equates to 2,460,000 gallons of water lost to the water cycle. Although comparisons to water use on golf courses are often drawn, irrigation water is both transpired by grass and infiltrated into shallow layers of the soil where it evaporates back into the atmosphere.

Protection of Drinking Water Aquifers is accomplished by a series of casings driven down the drill hole as the drilling proceeds. The casing must be inserted and sealed correctly. Oversight and strict inspection of this process is essential. Residents are cautioned to test their well water before drilling begins in order to have a baseline report in case they later believe their water supply has suffered from the drilling. As the most common well water tests are primarily to detect bacteria, residents should inform the lab of the prospective drilling and ask for more extensive tests of total dissolved solids, heavy metals and any other materials about which they are concerned. Few reports are available about disturbance of private wells. Industry practice in other states has been to supply bottled water for residents who can prove water supply damage and to have these persons commit in writing to non-communication about the action.

Regulations:

Gas well drilling was exempted from federal Environmental Protection Agency Safe Drinking Water Act and Clean Air Act regulations by the 2005 Energy Policy Act. State and local requirements may be more stringent. New York DEC requires air emission standards for individual wells, but does not monitor cumulative emissions. Some substances used or produced in drilling (e.g. hydrogen sulfide, a poison reacting with several different body systems) have been defined as "non-toxic" for purposes of regulation.

Wastewater

For gas to flow out of the rock, the water must be removed. Large quantities of contaminated wastewater are recovered from the wells. Contaminants include the chemicals used in hydrofracturing the rock: primarily gels that increase the viscosity of the water and friction reducers along with other chemicals. The increased viscosity of the water enables it to carry a proppant – usually sand – that keeps the fractures open after the pressure is released. The viscosity of these fluids breaks down quickly so they can be pumped back out of the ground. The percentage of chemical additives in a typical hydrofrac fluid is commonly less than 0.5 % by volume. Additives in a three million gallon hydrofrac job would result in about 15,000 gallons of chemicals in the waste, according to a USGS fact sheet. About 18% of the hydrofrac water is returned. This "blowback", may be partly reused in drilling other wells if feasible.

Along with chemicals, the hydrofrac water picks up materials from the rock with which it is in contact. Brine, heavy metals (arsenic, barium and others), radionuclides and organics make wastewater treatment difficult. NYS DEC recently analyzed 13 samples of wastewater brought thousands of feet to the surface from drilling and found that 11 significantly exceeded legal limits of radioactivity permissible for release into the environment according to a USGS publication. There has been no determination about additional sampling.

Water Resources and Natural Gas Production from the Marcellus and Utica Shales

By Edith Davey

Proposals that rock removed from drill holes could be beneficially used for road paving would seem to be problematic because of the radioactive content (cumulative exposures to paving workers/joggers, etc.) and the substantial pyrite content of the rock. Pyrites reacting with oxygen are the source of acid leachate from mines. Specialized landfills may be necessary.

Wastewater Treatment: Blowback fluids are commonly stored onsite in plastic-lined pits until removed for disposal. Care must be taken to keep the fluid secure and contained. Current disposal practice in Pennsylvania requires passing drilling fluids through wastewater treatment plants designed to remove bacteria and organic solids. The effectiveness of this procedure is characterized as "not well understood". Salts and other dissolved solids in brines are not usually removed by wastewater treatment. The operational failure of one municipal wastewater treatment plant that resulted in major environmental damage to the Monongahela River has been linked to the processing of hydrofrac water. Injection of the waste fluid into depths either shallower or lower than drinking water aquifers has been practiced in other areas. Another disposal practice common in Texas places wastewater in open tanks to evaporate; solids are then buried as dry waste.

Water used for consumptive purposes is not supposed to be removed from its natural drainage basin. Questions have arisen about water withdrawals and discharge occurring in different watersheds and drainage basins where large quantities of water have been trucked in and out. The amount of water lost to the natural water cycle is substantial. Although comparisons to the amount of water use on golf courses are often drawn, 82% of hydrofrac water remains underground forever. For one 3 million gallon well; 2,460,000 gallons of water are lost to the water cycle.

What are the Land Use Concerns?

Fragmentation of farmlands and forestlands by drilling pads and roads is a significant impact. Placement of the drilling sites can isolate parts of fields, making them difficult for farmers to reach for fieldwork. Construction of the roads necessary to service the drilling pad takes up considerable land. Compaction of the soils under these access roads can remain severe long after the roads vanish. Density of well sites is expected to be high in the New York drilling area. The constant [24 hours a day, 7 days a week] traffic, lights and noise can be difficult to live with for both humans and livestock.

Forested lands often suffer degradation of streams and disruption of habitats. Species that adapt poorly to fragmented habitats are especially harmed. Many miles of pipeline construction will be necessary to gather the gas and then move it to consumers, further fragmenting natural areas. The wear and tear on rural roads is considerable. The largest tanker trucks can carry about 9000 gallons of water per trip. For a 3 million gallon drill, that would mean at least 334 tanker loads to supply the drilling water. Smaller tankers average 5500 gallons, which would require 546 trips. Wastewater removal would require more trips. Rural roads and culverts are usually not built for this kind of intense traffic.

Other Items of Interest:

Landowners with mortgages should carefully read their documents to ensure that entering into a lease does not compromise their standing with their lending institution.



Map showing extent of Marcellus shale

Landowners should confer with their own attorney before any agreements are signed. Gas drilling companies have the right of eminent domain for gathering pipelines as well as larger collection pipes. Drillers must include an affidavit in their application for a permit from DEC stating that it controls at least 60% of the land within the spacing unit (anywhere from 40 – 640 acres) by lease or ownership. The owners of the remaining 40% of the land are "uncontrolled owners." Uncontrolled owners are subject to compulsory integration and are given these three choices:

Status Costs Rewards

Integrated Royalty Owner

(If the owner does nothing, owner is integrated as an Integrated Royalty Owner) No liability for costs, no third party liability, driller cannot enter property. Royalty equal to the lowest royalty stated in a lease in the unit (but not less than 12.5%.)

Integrated Participating Owner

Owner pays a proportionate share of well costs (estimated cost due at the time of election Shares both risks and rewards. of this choice)

Integrated Non-Participating Owner

Owner reimburses driller out of proceeds of production for share of well costs, plus a penalty equal to 200% of such costs. Share rewards after deduction of 300% share of the well costs.

Probable Impacts on the Canandaigua Lake Watershed

Because of its position in the landscape relative to the other Finger Lakes and the Marcellus formation, it is unlikely that the Canandaigua Lake watershed will feel the direct impacts of gas exploration and well-drilling. However, it is likely that our area will be impacted by the need to dispose of the byproducts of the well-drilling, which our sewage treatment plants are ill equipped to handle. **CLWA**

Doing Their Part: Town of Canandaigua Recycling

Our lifestyles produce tremendous amounts of waste materials. Americans create something over eight pounds of waste per day, day in and day out. A waste stream of this volume could do tremendous harm to whole landscapes, including our lake.

Municipal governments handle waste in various ways. Some take a very "hands-off" approach, allowing private haulers to manage the waste for a fee. Others, such as the Town of Canandaigua, provide a municipal option. This is important because municipal waste operations are much more likely to have an active, effective recycling option that also reduces costs for the users.



Justin Reader bundled against the cold in the Recycling Center.

The Town of Canandaigua offers simple and effective access to their recycling program to town residents. Residents speak highly of the staff and how easy their assistance and design of the recycling center makes participation in this important program.

Kudos to Town employees Todd Wood, Chris Gingerich, Justine Reader, Austin Mincer, and Marcus Bulman for managing a user-friendly operation that recycles waste and keeps it out of our streams and lake. **CLWA**

Lake Levels

By Stephen Lewandowski

Canandaigua Lake has been cruising at or just above the prescribed winter level of 686.9 feet above mean sea level (m.s.l.) for most of this winter. Having the lake "drawn down" from summer levels of 688.2 (1.3 feet higher) allows for the major runoff events of the year, which typically take place in February or March, to raise the lake's level without flooding lakeside properties. Or at least that's the theory.

In recent years, the theory has worked pretty well because nature has provided some runoff but not the major storms and runoff events (that include melting snow and ice) that we've seen in the past. Also the removal of debris from the first four miles of the Outlet (as far as Chapin) carried out by the Ontario County Soil and Water Conservation District in 1995 has kept the channel capable of manipulating the lake level fairly efficiently.

No maintenance lasts forever, however, so we should remain vigilant about lake levels, manipulation of the gates controlled by the City of Canandaigua, and the efficiency of the channel. **CLWA**

Progress on the Regulation of Steep Slopes in the Town of South Bristol

By Kevin Olvany, Watershed Council Program Manager

The Town of South Bristol has been working through its Planning Board and Town Board on regulations to reduce the potential water quality impacts when disturbing steep slope areas. Most recently two members of the Town Board and two members of the Planning Board have been meeting to try and develop a consensus piece of legislation that provides for effective water quality protection while not being overly burdensome to its residents. This has been a tough balance that has generated quality debate within the Town.

The proposed law is to be presented to the full Planning Board and Town Board this winter for their review and comment. The law will then go through the normal adoption process including public hearings.

The law will be a town-wide law, but has different earth disturbance thresholds for different portions of the town that are based on protecting water resources. The law's requirements will have to be met if:

- 1,000 square feet of steep slope land are being disturbed within 2,000 horizontal feet of the lake

- 2,000 square feet of steep slope land are being disturbed within 100 horizontal feet of a water course
- 12,000 square feet of steep slope land are being disturbed throughout the rest of the town.

If these disturbance thresholds are met and the disturbance is not an exempt activity (such as agricultural soil cultivation) then the owner will have to provide an erosion and sediment control plan that has been created and stamped by a professional engineer. The plan will have to provide a sequence of construction, location of all erosion and sediment control measures, and drainage calculations for the most immediate downstream culvert. At the end of the project, the owner must also provide the town a letter from the engineer that the erosion and sediment control plan was implemented in conformance with the plans.

Overall, the law strives to keep the application process simple, the review process efficient, and the enforcement process straight forward. The Town should be proud of the careful and deliberative process that has been used to get to a balanced law. The Watershed Council looks forward to working with the Town to complete this process and assist as needed. **CLWA**

Watershed Education Program: Fall 2010 Water Monitoring Update

By Nadia Harvieux

The Watershed Education Program kicked off the 4th year of outreach programs this past fall with a successful water monitoring season.

Canandaigua Middle School sixth graders sampled two different ponds on the FLCC campus: a large, open pond near the CMAC parking lot and a much smaller, heavily vegetated pond near the former fish hatchery. Students at the large pond observed dragonfly and mayfly larvae, crayfish and gilled snails, indicating good to fair water quality. Students at the smaller pond observed water boatmen, backswimmers and a water scorpion. These aquatic true bugs are usually found in quiet water with abundant vegetation and are somewhat to very tolerant of water pollution, indicating fair to poor water quality.



Students sampling Naples Creek

Naples seventh graders continued their annual water monitoring of Naples Creek using a new sampling protocol developed by the Finger Lakes Institute for the Finger Lakes Regional Stream Monitoring Network. Based on the observation of caddisflies, mayflies, stoneflies and aquatic beetles, combined with the absence of aquatic worms, students were able to determine that Naples Creek is non-impacted, indicating very good water quality.



Students identifying Macroinvertebrates

The 2010 fall water monitoring season was one of the most exciting yet for us as educators. Students' observation and identification skills were put to the test at the smaller FLCC pond location and we now have water quality and macroinvertebrate data for two very different pond habitats for students to compare. Implementing the sampling protocol from FLI allowed students to utilize new sampling methods with a more quantitative focus. And, as happens every year, students identified something we had yet to find during a water monitoring field study-- the water scorpion in this case! **CLWA**



Learn! Live! Act! Like an Environmental Steward

FLI Community Outreach Coordinator Sarah Meyer has written and published the 27 page Learn! Live! Act! A Finger Lakes Green Lake Living Guide with funding provided by a 2009 Ontario County Small Grants Project.

The guide, packed with regional references and specific opportunities, focuses on encouraging environmental stewardship through education, lifestyle changes, and public service. The limited number of printed guides will be distributed to Ontario County residents and businesses over the next few months.

Organizations interested in sponsoring the printing of additional copies for their offices and mailings may contact Sarah Meyer at smeyer@hws.edu. At this time the Learn! Live! Act! Guide is available online at http://fli.hws.edu/pdf/2010/publications/LearnLiveAct_FLI.pdf

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Be a Friend of Canandaigua Lake

The Canandaigua Lake Watershed Association has a strong base of supporters and a significant history of Protecting Canandaigua Lake and its watershed. Because of numerous and complex challenges, we need YOUR support.

Please return this form (or a copy of it) with your contribution. Remember your contribution is TAX DEDUCTIBLE.

Your 2010 membership benefits include a quarterly newsletter, committee participation and reports, special alerts on crucial issues, invitations to events and the Annual Meeting, but most important, you will know you're doing YOUR PART to protect this precious resource.

Yes, please process my 2010 tax-deductible membership in the Canandaigua Lake Watershed Association.

- \$25 **Supporter** (student rate)
- \$35 **Guardian**
- \$100 **Lake Leader** (your gift at this level helps to pay for water testing)
- \$250 **Watershed Steward** (says it all)
- \$1000 **Benefactor** (your gift at this level supports our education program)

Name _____

Principal Address _____

I own property in the watershed town of _____

Email address _____

Principal phone number _____ Alternate phone number _____

**Please mail this membership form and your check to:
CLWA, P O Box 323, Canandaigua, NY 14424**