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Written Testimony of Christopher Phelps, Program Director
Before the Connecticut General Assembly Environment Committee

Friday, February 13, 2009

Written testimony **opposing** Proposed Senate Bill 567, An Act Limiting Liability For Permit Violations.

Senator Meyer, Representative Roy, Senator McKinney, Representative Chapin and members of the Environment Committee:

Environment Connecticut submits this testimony strongly opposing Proposed Senate bill 567. This proposed bill would open a gaping hole in Connecticut's efforts to enforce compliance with environmental laws by ***prohibiting the Commissioner of the Department of Environmental Protection from enforcing permit violations*** against contractors and other persons other than the actual holder of a given permit.

This legislation creates a financial incentive for contractors and others to cut corners, willfully violate environmental permits, and escape liability for their actions. Both a permittee and contractor have separate economic incentives to violate environmental permit provisions. A permittee, may cut corners in awarding a contract to cut his costs. A contractor may have even greater incentives to cut corners in doing the work because avoided costs mean more profit for them. This legislation would effectively incentivize the violation of environmental permits by unscrupulous contractors and others.

Holding a permittee solely responsible for actions of a contractor places an undue burden upon that permittee. Take the example of a public agency, which would need to waste scarce public financial resources at both ends – spending time policing contractor conduct up front, and then incurring legal fees at the back end when they seek to get the contractor to indemnify the agency for its penalties.

Put simply, Proposed Senate Bill 567 is morally wrong and terrible public policy. People should be responsible for the consequences of their own actions. Circumstances where those actions cause harm to Connecticut's environment should be no exception.

There is no canon of ethics in which "I was under contract" is an excuse to break the law. Imagine that you arrive home tonight and find a pickup truck has plowed through the fence in your yard, smashed into the side of your house, and is now sitting in your living room. Imagine further, that you confront the driver of the truck, and he points to your neighbor's house and says, "Don't talk to me; I'm just under contract repairing your

neighbor's roof, "So *only your neighbor* should pay to repair your fence and house, not me." That's preposterous. It's also describes the "logic" behind this legislation.

On behalf of Enviornment Connecticut's statewide membership, I urge you to reject Proposed Senate Bill 567 and protect the authority of the Commissioner of Environmental Protection to hold anyone who violates our state's environmental protection laws accountable for their actions.

Sincerely,

Christopher Phelps
Program Director
Environment Connecticut