



Norwich Public Utilities

April 8, 2011

Connecticut General Assembly
Judiciary Committee
Legislative Office Building
Hartford, Connecticut 06106

Subject: Support of HB-6557 - An Act Concerning Liability for the Recreational Use of Lands

Ladies and Gentlemen:

Norwich Public Utilities (NPU) owns two active reservoirs in Colchester and Montville and surrounding watershed lands totaling approximately 1,430 acres. Privately owned lands within these watersheds predominately are residential use, with lesser amounts of farm and forest land, municipal open space/recreation, and minor amounts of commercial use. NPU watershed lands are not open to public use and are posted with "No Trespassing" signs. However, the reality is, because of the proximity of NPU watershed lands to these residential properties, occasional trespassing occurs with the vast majority of these "trespassers" using these lands for passive recreation. Unfortunately, some trespassers are more aggressive in their use including ATVs, dirt bikes, camp fires, and parties occasionally damaging and even intentionally vandalizing the properties. NPU staff will alert "trespassers" of their status when observed but dedicated patrols are not feasible.

While incidents have occurred on NPU watershed lands, fortunately they have been few and far between. Furthermore, some the incidents have been circumvented, or at least minimized, because the "passive trespassers" have alerted NPU and other authorities. It is my expectation that NPU is not alone in this type scenario and it is this specific liability exposure that concerns me the most.

Should one of these "aggressive trespassers", or even one of the "passive trespassers", become injured on NPU property and chose to file suit, a liability exists. As we have all seen, when you have an injured plaintiff that the jury is sympathetic to, they will tend to interpret the law to hold an entity liable for the injuries.

Certain protections exist to private landowners and utilities through the state's Recreational Land Use Act. However, the protection enjoyed by private landowners does not extend to regional and municipal water companies under the 1996 Connecticut Supreme Court decision in Conway v. Hilton. In this decision, the state Supreme Court held that municipalities and their employees are not "owners" under the Recreational Land Use Act and are not entitled to immunity from liability provided by that act for injuries sustained on land they make available to the public

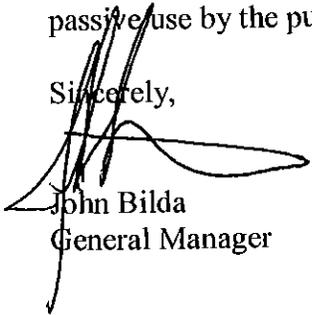
without charge for recreational purposes. While NPU does not make their lands available for public use, as previously noted, the public does use the land (at no charge) and NPU does not have the resources to patrol and enforce trespassing laws over 1,400+ acres.

HB-6557 would correct this loophole by amending the state statute to provide an exemption from recreational use lawsuits for municipalities, regional and municipal water companies and other government entities that allow people free access to their land if it is reasonably maintained.

NPU will continue to diligently enforce its trespassing laws against such "aggressive trespassers" in an effort to protect its valuable water sources. However, NPU also desires to preserve its "good neighbor" status to these outlying communities, their residents, and such "passive trespassers". With the support of HB-6557, such goals are achievable. However, if the liabilities that resulted in multi-million dollar damage awards continue, more aggressive and costly enforcement may be required. Costs that will be borne by NPU water users.

Please support HB-6557 and help municipalities, regional and municipal water companies avoid such unnecessary costs and liabilities and continue to make these beautiful lands available for the passive use by the public.

Sincerely,



John Bilda
General Manager