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FOR THE PLANNING COMMITTEE PUBLIC HEARING FEBRUARY 14, 2011

To Chairmen Steve Cassano, Linda Gentile, and Members of the Committee:

Rivers Alliance of Connecticut is the statewide, non-profit coalition of river organizations, individuals, and businesses formed to protect and enhance Connecticut's waters by promoting sound water policies, uniting and strengthening the state's many river groups, and educating the public about the importance of water stewardship. Our 450 members include almost all of the state's river and watershed conservation groups, representing many thousand Connecticut residents.

Bill No. 43, Bill No. 90, Bill No. 5254

Thank you for the opportunity to comment on the bills before you today. Bills number 43, 90, and 5254 are similar in seeking amendment of the **Recreational Land Use Act**. The main purpose of the proposed amendments is to extend to municipalities and public water authorities the immunity that is afforded private citizens *and the state* when they open land without charge for recreation.

In this time of scarce funding for cities and towns, local governments cannot afford to offer residents extra programs. But they should be able to open their lands for hiking and other and other healthy activities without fear of penalty. Unfortunately, in recent years, the risk of litigation and a few surprising jury awards have led town officials and water-utility executives to close off or consider closing off open-space, and to ban previously permitted activities, such as rock climbing.

Prior to 1996, it was assumed that towns had the same liability shield that applies to private land and state-owned that is open to the public for hiking, bicycling, and the like. However, in *Conway v. Wilton* (1996), the court ruled that the town was not an "owner" in the sense of the protective statute (Section 1. Section 52-557f). Rivers Alliance realized at the time that the ruling would eventually shut the public out of many public lands. We advocated then for legislation similar to what is before you today.

In 2008- 2009, our members and others began to request legal guidance on how to deal with liability concerns associated with paddling events, hikes, river cleanups, and so forth. We asked attorney Beth Critton, who is testifying here today, to give a

A tax-exempt
organization under
501 (c) (3) of the
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Code

legal overview of recreational liability at a small conference in 2009. This presentation proved of such interest that we scheduled a full-day conference for April 16, 2010. *The highest priority action item to emerge from the conference was to restore the traditional liability shield to municipalities and public utilities.* This goal was supported by the conference sponsors including American Canoe Association, Appalachian Mountain Club, Connecticut Forest and Park Association, Sierra Club - Connecticut Chapter. *Note, this was months before the adverse ruling in the MDC case.* Any suggestion that the present legislation is an overreaction to a single bad case is missing the point.

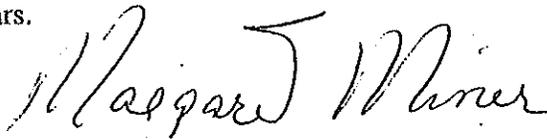
Municipalities, especially small towns, are faced with conflicting pressures from residents asking for open-space access and, on the other hand, advice from Boards of Finance that the chance of costly litigation is an unaffordable risk. Supporters of the status quo suggest that towns should buy more insurance or increase the budget for legal expenses. But any increase of that sort is unlikely to survive the budget process.

The proposed legislation provides consistency in the legal status of landowners who are willing to allow people to enter public or private open space without charge. The present system makes no sense: why should a sprained ankle on one part of a trail have a different liability status from another part of the trail depending on whether it happened inside a town line or just outside a town line? This legislation safeguards for the public the valuable right and privilege to enjoy this state's wonderful open spaces. It encourages exercise and good health. It supports tourism and outdoor recreation, along with affiliated businesses. The bill will also save towns money, somewhat from lower insurance premiums, but most importantly by reducing the risk of costly legal defense in cases where there has been no wrongdoing.

We support this legislation, and would be happy to work with you if questions arise.

Bill No. 499 AAC Wastewater Management

The purpose of the bill is laudable. But the implementation of wastewater policies can be challenging. As the bill is developed, we would appreciate the opportunity to comments on the particulars.



Sincerely, Margaret Miner, Executive Director