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IN RE: SB431 JUDICIARY COMMITTEE MARCH 18, 2016  
AAC CONSENT ORDERS ENTERED INTO BY THE CT DEEP.

TESTIMONY IN SUPPORT

My name is Keith Ainsworth. I reside at 31 Green Springs Drive, Madison, Connecticut and am an environmental attorney with a New Haven office. I have been in private practice for 25 years and have been on the Executive Committee and past-chair of the Environmental Law section of the CT Bar Association. I often represent individuals, businesses and organizations asserting claims to protect and conserve natural resources. I frequently lecture on environmental law. I am testifying solely on my own behalf without compensation.

I **SUPPORT** the bill now before your Committee which protects the integrity of Consent Orders which are a valuable tool for protecting the environment.

Recently, a court ruling issued by the Land Use Docket of the Superior Court held that the Department of Energy & Environmental Protection may unilaterally revoke a Consent Order. Thus ruling now makes Consent Orders insecure from future revocation.

This bill proposes to re-establish the faith that all parties have in Consent Orders. A Consent Order is a binding order issued by the Department with the consent of the party alleged to be responsible. Such orders avoid potentially expensive and resource-intensive litigation and establish a minimum response to environmental pollution or impairment which a party must make.

As someone who represents many environmental interests, I am concerned that the Department's ability to *unilaterally* revoke Consent Orders will take away one of the tools that conservationists can utilize to hold polluters to task for their liabilities without having to engage in fights that many environmental organizations cannot afford to pursue.

This bill does **NOT** take away the Department's ability to enforce a Consent Order or to even to seek to revoke the Consent Order based upon a showing to a court that circumstances require the revocation of the order.

I favor language that clarifies that any party to a Consent Order may seek to modify the order on grounds of good cause shown either by changed circumstances, impossibility, fraud or material misrepresentation or as required by the interests of justice and the public trust in the environment.

The Committee should pass this bill for these reasons.