



**Testimony prepared for the
House Tourism and Recreational Development Committee
by Andy Loza, Executive Director,
Pennsylvania Land Trust Association
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The Recreational Use of Land and Water Act isn't delivering on its purpose. It doesn't adequately protect private landowners who wish to help the public. It doesn't adequately protect charitable nonprofits who serve the public. And through its inadequacies, it fails people of all walks of life, who are left with fewer opportunities to hike, bike, hunt, bird-watch and otherwise enjoy the outdoors.

Inadequate protection of landowners means fewer recreational opportunities for the public.

The 75 member organizations of the Pennsylvania Land Trust Association work with landowners who agree to conserve their land for the benefit of the public. The land may be conserved to ensure water quality, prevent flooding, protect productive farm soils, maintain scenic views or provide wildlife habitat. Quite often, landowners agree to do this without payment, with Pennsylvanians benefiting tremendously from their generosity.

Conservation may be achieved through use of conservation easements, which conserve the land without requiring public ownership of land. Landowners conveyed 124 conservation easements to 35 land trusts in 2011 alone. These conservation easements, while providing conservation benefits to the public, for the most part do not provide public access to the land.

Why aren't landowners donating or selling easements that provide for trails and other public access? In many cases, they fear liability. This fear is well grounded with the courts' various rulings through the years that have found landowners liable for injuries to persons who were recreating on their lands. The simple and awful truth is that a good deed of opening land to the public leaves one vulnerable

Voting Members

- Allegheny Land Trust
- Allegheny Valley Conservancy
- Allegheny Valley Land Trust
- Allegheny Valley Trails Association
- Armstrong County Conservancy
- Charitable Trust
- Audubon Society of Western Pennsylvania
- Bedminster Regional Land Conservancy
- Berks County Conservancy
- Brandywine Conservancy
- Buck Hill Conservation Foundation
- Central Pennsylvania Conservancy
- Centre County Farmland Trust
- Chestnut Hill Historical Society
- ClearWater Conservancy
- Conservancy of Montgomery County
- The Conservation Fund, Pennsylvania Office
- Countryside Conservancy
- Delaware Highlands Conservancy
- Edward L. Rose Conservancy of Susquehanna County
- East Nantmeal Land Trust
- Eden Hill Conservancy
- Evergreen Conservancy
- Farm and Natural Lands Trust of York County
- Foundation for Sustainable Forests
- Fox Chapel Land Conservation Trust
- French & Pickering Creeks Conservation Trust
- French Creek Valley Conservancy
- Green Space Alliance
- Hawk Mountain Sanctuary Association
- Heritage Conservancy
- Hollow Oak Land Trust
- Independence Conservancy
- Keystone Conservation Trust
- Lackawanna Valley Conservancy
- Lancaster County Conservancy
- Lancaster Farmland Trust
- Land Conservancy of Adams County
- The Land Conservancy for Southern Chester County
- Lebanon Valley Conservancy

to lawsuit. Even if the suit fails, the expense to defend, the loss of time and the personal trauma are substantial.

Over the past decade, volunteers and staff at trail groups, land trusts and other nonprofits have said to me again and again: "Hey, could you put together a guide for us? Just a simple piece that tells landowners that if they open their land for public recreation, the Recreational Use of Land and Water Act will protect them from unreasonable liability?" Sadly, the answer is "NO." The answer is "no" because a landowner who donates an easement for a hiking, biking or other trail; who allows hunting or bird-watching on their land; or who allows pick-up games of softball is vulnerable to unreasonable lawsuits.

This is unfair to the generous private landowner who goes ahead and opens his or her land in spite of the risk. It is also a huge loss to the public – a huge loss due to the recreation projects that don't happen. A huge loss due to the beautiful lands off-limits to the public for fear of liability.

Inadequate protection of charitable nonprofits means fewer recreational opportunities for the public.

In addition to working with private landowners to achieve conservation and recreation objectives, land trusts and other charitable nonprofits also face regular challenges on how much public access and recreation they can afford to accommodate.

Many land trusts, if offered land by a generous landowner for development of a privately managed public park or wildlife preserve, will refuse the offer because of fear of liability. The organizations recognize that if a recreational user sues them, that it could bankrupt the charity or so harm their finances to the extent that their other important charitable work would be ruined or severely reduced. They have to fear that a lawsuit will make them essentially uninsurable in the future. It is thus safer to focus on other charitable endeavors.

Land trusts that do provide public recreational opportunities are told by legal counsel not to put up voluntary donation boxes, not to provide public parking, not to do many good things – because they risk triggering liability. No good deed goes unpunished.

The General Assembly, by amending RULWA, by passing HB 544, can bring more recreational opportunities to the public and stop the punishment of good deeds.

Fear of liability is a central obstacle to efforts to establish trails and other recreational opportunities for people of all ages. By providing assurance to landowners that their public-minded decisions to provide access won't be punished with undue liability, the General Assembly can expand recreational and tourism opportunities. Both the public and landowner can win.

On behalf of the Pennsylvania Land Trust Association's 75 member organizations, who work with landowners to conserve their land and to provide safe and responsible recreational opportunities to the public, thank you for your consideration.

The Pennsylvania Land Trust Association is made up of 75 dues paying, voting conservation organizations that in turn count more than 120,000 Pennsylvanians as contributors and members.

The Association seeks to protect Pennsylvania's special places—the farms, forests, parks and other green spaces that people love—the places that help to ensure healthy, prosperous and secure communities.

London Britain Land Trust
Manada Conservancy
Merrill Linn Land & Waterways
Conservancy
Mid-Atlantic Karst Conservancy
Mokoma Conservancy
Montgomery County Lands
Trust
Montour Trail Council
Mount Nittany Conservancy
Natural Lands Trust
The Nature Conservancy
North American Land Trust
North Branch Land Trust
Northcentral Pennsylvania
Conservancy
Open Land Conservancy of
Chester County
Pennsbury Land Trust
Pennsylvania Recreation &
Park Society
Pennypack Ecological
Restoration Trust
Pine Creek Land Conservation
Trust
Pine Creek Valley Watershed
Association
Pocono Heritage Land Trust
The Radnor Conservancy
Regional Trail Corporation
Schuylkill County Conservancy
Somerset County Conservancy
Susquehanna Greenways
Partnership
Tincum Conservancy
The Trust for Public Land
Tricounty Rails to Trails
The Wallace Trust
West Pikeland Land Trust
Western Pennsylvania
Conservancy
Westmoreland Land Trust
Wild Waterways Conservancy
Wildlands Conservancy
Willistown Conservation Trust
Wissahickon Valley Watershed
Association