



March 1, 2022

***Via Electronic Mail***

The Honorable Karen Spilka  
Senate President  
Massachusetts State House, Room 332  
24 Beacon Street  
Boston, MA 02133

RE: Support of *An Act Preserving Open Space in the Commonwealth. (H.851)*

Dear Senate President Spilka:

On behalf of our organizations, we are writing to respectfully request your support of *An Act Preserving Open Space in the Commonwealth*, filed by Senator James Eldridge and Representative Ruth Balser, and urge prompt passage of the bill by the Senate. This legislation (H.851), also known as the Public Lands Preservation Act, or “PLPA”, will add clarity and statutory protections for open space by codifying current state policy and ensuring preservation of open space lands or easements protected under Article 97 of the Massachusetts Constitution. The PLPA will provide critical open space protections without an increase in taxes or fees.

Public lands provide our communities with many benefits, including protecting drinking water quality and quantity; ensuring clean air; supporting agriculture, forestry, recreation, and tourism; sequestering and storing carbon; and buffering against flooding, as storms become more frequent and intense due to climate change.

This is a critical time for the General Court to restate its commitment to Article 97, as impacts from the COVID-19 pandemic and climate change have clearly highlighted the importance of natural areas, parks and trails to public health and wellbeing, outdoor recreation, and climate resiliency. Now more than ever, PLPA and no net loss regulations are needed to support our environmental justice communities, as they are most heavily impacted by climate change, COVID-19, pollution, racism, and poverty, and are all too often also burdened by a lack of access to open space and any outdoor recreational opportunities.

**Background**

In the 1970s, the adoption of Article 97 was a clear assertion by the people of the Commonwealth of their right to a clean and healthy environment and for the protection of our valuable open spaces. Lands acquired for conservation purposes under Article 97 have protected status, and their disposition must be approved by a two-thirds roll call vote of each branch of the Legislature. Unfortunately, the will of the people is readily overridden by a two-thirds roll call vote every legislative session, resulting in public lands, protected using taxpayer dollars, being permanently converted to other, inconsistent uses.

In an effort to add a meaningful review before such action could be taken, in 1998, the Executive Office of Energy and Environmental Affairs (EEA) established an Article 97 Land Disposition Policy (also known as EEA's "No Net Loss" Policy). The policy outlines an approach to provide equivalent replacement land when selling, disposing, or converting Article 97 land. This bill would codify EEA's disposition policy into an enforceable statute to protect, clarify EEA's disposition process, and ensure that all future administrations are required to adhere to the law, rather than solely rely on an unenforceable administrative policy.

Previous PLPA bills have had a great deal of support from municipalities, legislators, and environmental groups, and this legislation continues to have support from municipal leaders, municipal commissions, land trusts, and organizations across the Commonwealth. The PLPA bill before you today, is brief and has been boiled down to its essence: the protection of public land as envisioned in Article 97 of the Massachusetts Constitution.

### **What is in this legislation?**

- **No Net Loss of Article 97 Lands.** This bill will give the protection of law to the current state policy that there be *no net loss* of lands or easements protected under Article 97. Any replacement land must be of comparable acreage, location, fair market value, and natural resource value. The PLPA will allow for waivers from the replacement land requirement if the disposition involves only transfer of legal control between public entities.
- **Alternatives Analysis.** Prior to filing legislation petitioning a change in use or disposition of Article 97 land, an evaluation of alternatives would be required. This provision is consistent with the current policy.
- **Transparency.** The PLPA would require notification to the public and EEA prior to filing legislation petitioning a change in the use or disposition of public land. Prior notification will help streamline and add transparency to the process. This will also save time and money for the municipalities, as it offers the opportunity to make sure proposed replacement land is deemed suitable by EEA and the public prior to moving forward with the land disposition process.
- **Regulations.** Regulations would be created to convert the No Net Loss Policy and existing practice into enforceable regulations.

### **What is not in this legislation?**

- The PLPA does not require additional funding to be implemented.
- The PLPA does not require fees.
- The PLPA does not remove municipal decision-making.
- The PLPA does not create excessive new legislation: this is a simple, clearly written, bill that will enhance current policies.

### **Why do we need this legislation now?**

This legislation is needed to help combat climate change impacts. Green infrastructure is both essential to help us adapt to the most severe climate impacts and to store and sequester carbon emissions. Lands protected through Article 97 buffer against floods; minimize heat island effects; increase carbon dioxide sequestration in grasses, wetlands, trees, and soils; protect drinking water supplies; and continue to provide outdoor recreational opportunities.

We respectfully urge you and through you the Senate to pass the PLPA (H851) and send the bill to the Governor for signature. If you have any questions, please do not hesitate to contact Dot McGlincy, Massachusetts Association of Conservation Commissions, (617) 489-3930, or Robb Johnson, Massachusetts Land Trust Coalition, (978) 443-2233.

Thank you for your time and consideration of this matter.

Sincerely,

Heather Clish  
Senior Director Conservation and Recreation Policy  
Appalachian Mountain Club

Sarah Freeman  
Representative  
Arborway Coalition

Don Keeran  
Assistant Director  
Association to Preserve Cape Cod

Paul Heroux  
Mayor  
City of Attleboro

Jane Winn  
Executive Director  
Berkshire Environmental Action Team (BEAT)

Arlene Mattison  
President  
Brookline Greenspace Alliance

Korin Petersen  
Senior Attorney  
Buzzard's Bay Coalition

Emily Norton  
Executive Director  
Charles River Watershed Association

Elizabeth Saunders  
Massachusetts Director  
Clean Water Action

Andrea Donlon  
River Steward, Massachusetts  
Connecticut River Conservancy

Caitlin Peale Sloan  
Vice President, Massachusetts  
Conservation Law Foundation

Julia Damiano  
Volunteer Engagement and Policy Coordinator  
Emerald Necklace Conservancy

Casey Bowers  
Assistant Vice President for Government Relations  
Environmental League of Massachusetts

Andrew Sherman  
President  
Friends of Harold Parker State Park

Judy Lehrer Jacobs  
Executive Director  
Friends of the Blue Hills

Christine Herter Warren  
Steering Committee member  
Friends of the Burlington Landlocked Forest

Chris Redfern  
Executive Director  
Friends of the Middlesex Fells Reservation

Elizabeth Vizza  
President  
Friends of the Public Garden

Eleanor Tillinghast  
President  
Green Berkshires

Ari Kurtz  
Chairperson  
Lincoln Conservation Commission

William G. Constable  
President  
Lincoln Land Conservation Trust

Gary J. Christenson  
Mayor  
City of Malden

E. Heidi Ricci  
Director of Policy and Advocacy  
Mass Audubon

Dorothy A. McGlincy  
Executive Director  
Massachusetts Association of Conservation Commissions

Doug Pizzi  
Executive Director

Massachusetts Conservation Voters

Robb Johnson  
Executive Director  
Massachusetts Land Trust Coalition

Julia Blatt  
Executive Director  
Massachusetts River Alliance

Michele Grzenda  
President  
Massachusetts Society of Municipal Conservation Professionals

Mathew Thorne  
Executive Director  
Merrimack River Watershed Council

Emma G. Ellsworth  
Executive Director  
Mount Grace Land Conservation Trust

Ted Kuklinski  
President  
Newton Conservators

Amy R. Maxner  
Conservation Administrator  
North Andover Conservation Commission

Julian Kadish  
Chairperson  
Norton Conservation Commission

Will Saunders  
Conservation Agent  
Norwell Conservation Commission

Deb Pasternak  
Executive Director  
Sierra Club, Massachusetts Chapter

Sharl Heller  
President  
Southeastern Massachusetts Pine Barrens Alliance, Inc.

Jennifer Leonard  
Chair  
Southwest Corridor Park Management Advisory Committee

Kathy Sferra

Conservation Director  
Stow Conservation Commission

Lisa Vernegaard  
Executive Director  
Sudbury Valley Trustees

Kristin DeBoer  
Executive Director  
The Kestrel Trust

Emily Myron  
Policy Manager  
The Nature Conservancy, Massachusetts Chapter

Kelly Boling  
Massachusetts Director  
The Trust for Public Land

Linda Orel  
Policy Director  
The Trustees of Reservations

Paul Atwood  
Treasurer  
Upper Charles Land Conservation Trust

Sonja Wadman  
Executive Director  
Waltham Land Trust

Jordan McCarron  
Conservation Administrator  
Weston Conservation Commission

Harvey R. Boshart  
Chair  
Weston Select Board

Katherina Wilkins  
Chair  
Weston Sustainability Committee

Karen Grey  
Executive Director  
Wildlands Trust

Cc: Senator James Eldridge

*Attachments: An Act Preserving Open Space in the Commonwealth. (H.851); PLPA Fact Sheet; EEA's No Net Loss Policy*