



PRESS RELEASE

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Court of Appeals decision rebukes Enbridge's bullying

The Wisconsin Court of Appeals today unanimously reversed a 2016 circuit court decision in the case of *Enbridge v. Dane County*. Circuit Court Judge Peter C. Anderson had overturned the requirement in Dane County's conditional use permit that Enbridge purchase cleanup insurance before tripling the volume of dangerous tar sands oil flowing through Line 61, which runs near Marshall. Attorney Patricia Hammel, who led 350 Madison's legal team together with Attorney Thomas Burney, credited the court with taking landowners' concerns seriously, saying, "Our clients look forward to having insurance protection against a devastating tar sands spill and proof that Enbridge continues to have such insurance in force. We must protect people living by pipelines until we can stop relying on fossil fuels."

Enbridge is a \$130 billion foreign pipeline company, headquartered in Canada, that is seeking to massively expand pipeline capacity to ship tar sands oil from Alberta through the Midwest, just as TransCanada is seeking to do through the Great Plains with its Keystone XL pipeline.

Tar sands oil is an especially dangerous type of oil for a number of reasons, according to 350 Madison's Tar Sands Leader Mary Beth Elliott. First, it is abrasive and corrosive and thus more likely to cause leaks in a pipeline. Second, when it does leak, it is much more hazardous and essentially impossible to clean up because it sinks instead of floats in water. Third, because of its tar-like consistency, its extraction releases three times more greenhouse gas emissions than conventional crude oil. But added to these dangers, Elliott pointed out, is Enbridge's terrible safety record: The company was responsible for [more than 800 spills between 1999 and 2010](#), including the largest inland oil pipeline spill in U.S. history—the 2010 Kalamazoo River disaster, which cost \$1.2 billion to only partially clean up.

350 Madison spokesperson Peter N. Anderson (no relation to the circuit court judge) applauded the Appeals Court decision as vindication of the group's four-year campaign to protect the citizens of Wisconsin from liability for cleanup costs in the event of an Enbridge spill. It was 350 Madison that first pointed out that Enbridge needed to get a conditional use permit and that cleanup insurance should be a key condition.

Anderson added that the citizens of Dane County owe a huge debt to the members of the Dane County Zoning and Land Regulation Committee (including former and current Chairs Patrick Miles and Mary Kolar), who immediately understood the critical importance of requiring cleanup insurance to protect the county and committed the resources to getting it done.

According to Anderson, the county resisted Enbridge's pressure to take its word for it that the general liability policy it carried provided adequate protection. The committee understood the grossly inadequate nature of such policies and demanded a specific policy intended for environmental cleanups, called environmental impairment liability insurance.

The Appeals Court decision sends the case back to the Zoning Committee for further proceedings. On remand, the committee is to determine whether Enbridge can make a showing that the insurance it carries meets the specific conditions created by an 11th-hour anonymous amendment to the 2015 State Budget—an amendment Enbridge claims it had nothing to do with, even though it exclusively benefits the company. If Enbridge's insurance meets those conditions, the amendment would void the insurance requirement, but the court's recitation of the facts makes clear that there is little chance that it does.

The decision is, in Anderson's words, "a stunning victory for citizen activism, for an outstanding legal team, and a courageous County Board."

Questions? Looking for an interview? Contact: Peter Anderson (608) 231-1100

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The 350 Madison Climate Action Team is dedicated to achieving a just transition to a reduction in atmospheric CO₂ below 350 parts per million (ppm) by working locally in concert with a powerful global movement.