

**Resolution No. 35 - 10/17**

**Supporting Reform of Wisconsin's Eminent Domain Laws and Prohibiting the Use of Eminent Domain for Forcible Land Takings by For-Profit Oil Pipeline Companies**

1 Moved/Sponsored by: Executive Committee

2  
3 **WHEREAS**, the 5<sup>th</sup> Amendment of the United States Bill of Rights and the Wisconsin  
4 Constitution both specify that "The property of no person shall be taken for public use without  
5 just compensation;" and,

6  
7 **WHEREAS**, taking private land against a landowner's will is a power of the State that should be  
8 used only rarely and exercised with solemn deliberation; and,

9  
10 **WHEREAS**, when the State grants the power of land takings by eminent domain to a business  
11 entity, the power granted removes free market forces such that, unlike other transaction between  
12 two parties, the landowner is placed in a disadvantaged position, precluding a fair a balanced  
13 transaction; and,

14  
15 **WHEREAS**, when the land taking is for an easement, the threat of eminent domain diminishes  
16 not only the landowner's negotiating power for a fair land price, but also diminishes the power to  
17 negotiate important easement terms such as the duration of the easement, annual payments for  
18 use of the land, whether the easement can be transferred to another business or sovereign entity,  
19 plans for pipeline abandonment, responsibilities for negligence and liability, as well as many  
20 other easement terms; and,

21  
22 **WHEREAS**, studies have shown:

- 23  
24 1) The threat of eminent domain reduces property values and the tax base, an effect known  
25 as "condemnation blight;"  
26 2) For long-term economic growth, it is crucial for landowners to trust that their property  
27 rights are secure; and,  
28 3) Government land takings for private development rarely result in a net economic gain.

29  
30 **WHEREAS**, Enbridge is a Canadian oil pipeline company that owns four pipelines that traverse  
31 the entire length of Wisconsin from Superior to the Illinois border, and these pipelines carry 2.2  
32 million barrels of oil per day through Wisconsin, which is approximately 15% to 20% of the  
33 daily oil demand in the United States; and,

34  
35 **WHEREAS**, Enbridge plans to acquire more land easements along their pipeline route from  
36 Superior to the Illinois border to add an additional pipeline called Twin 61 or Line 66 that could  
37 carry an additional 800,000 barrels of oil per day through Wisconsin; and,

38  
39 **WHEREAS**, in preparation for their pipeline expansion in Wisconsin, Enbridge has:

- 40  
41 1) Conducted civil, biological and archaeological surveys along the entire proposed pipeline  
42 route;

- 1 2) Announced to investors in January 2017 that the company is in the early developmental  
2 phase of their expansion in Wisconsin;
- 3 3) Applied for a permit for a new pipeline, the Line 3 Replacement in Minnesota that could  
4 carry up to 915,000 barrels of oil per day to the Enbridge terminal in Superior which,  
5 because the current pipeline system in Wisconsin is at capacity, must continue flowing  
6 south through Wisconsin in a new pipeline; and,
- 7 4) Announced plans to start construction on the Line 3 Replacement in Canada in the  
8 summer of 2017.

9  
10 **WHEREAS**, during the 2015 Wisconsin budget process, Enbridge instigated, drafted and  
11 ultimately, inserted an amendment to the State budget to change Wisconsin eminent domain  
12 statutes without public hearings and without normal legislative processes; and,

13  
14 **WHEREAS**, the change ensures Enbridge's business structure is fully eligible for the State's  
15 granting of eminent domain power to Enbridge; and,

16  
17 **WHEREAS**, Enbridge is a for-profit company intended for the benefit of its investors and as  
18 such, the power Enbridge has exercised in the past and plans to exercise in the future for forcible  
19 land takings by eminent domain does not meet the United States and Wisconsin constitutional  
20 standard of land takings only for public use; and,

21  
22 **WHEREAS**, the rights of a landowner to own and control his or her property are the foundation  
23 of American democracy and individual liberty; and,

24  
25 **WHEREAS**, other states have taken action to protect citizens' property rights and prohibit the  
26 abuse of eminent domain powers by for-profit oil companies. State actions include:

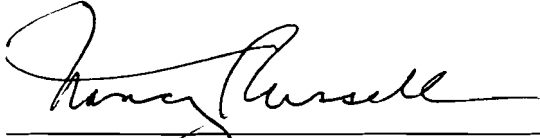
- 27  
28 1) South Carolina's governor signed a three-year moratorium on the use of eminent domain  
29 by oil pipeline companies in June 2016;
- 30 2) Georgia passed a bill providing additional safeguards to landowners dealing with for-  
31 profit pipeline companies in 2017;
- 32 3) North Carolina has proposed a state constitutional amendment limiting the use of eminent  
33 domain to only land takings that meet the criterion of public use such as roads; and,
- 34 4) Nebraska, Iowa and Illinois are considering bills to limit the abuses of eminent domain  
35 by oil pipeline companies.

36  
37 **WHEREAS**, all authority to grant eminent domain power to oil pipeline companies resides  
38 solely at the State level, namely the Wisconsin Public Service Commission. Unlike natural gas  
39 pipelines, no federal government agencies have authority over land takings by oil pipeline  
40 companies. Therefore, the State Legislature possesses the sole power and authority to revise  
41 State statutes to limit the abuses of eminent domain and restore property rights to Wisconsin  
42 citizens.

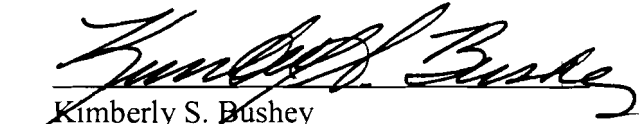
43  
44 **NOW, THEREFORE, BE IT RESOLVED** that the Walworth County Board of Supervisors  
45 hereby expresses their desire to the Wisconsin State Legislature and Governor to reform eminent

1 domain laws to protect the property rights of Wisconsin citizens and prohibit the State from  
2 granting the power of eminent domain to for-profit oil pipeline companies.

3  
4 **BE IT FURTHER RESOLVED** that the Walworth County Board of Supervisors directs the  
5 County Clerk to forward a copy of this resolution to Governor Walker, State Legislators  
6 representing Walworth County, the Public Service Commissioners and the Wisconsin Counties  
7 Association.

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10 

11  
12 Nancy Russell  
13 County Board Chair

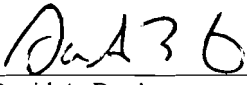
14   
15 Kimberly S. Bushey  
16 County Clerk

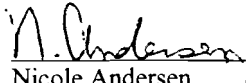
17 County Board Meeting Date: October 10, 2017

18 Action Required: Majority Vote  X  Two-thirds Vote \_\_\_\_\_ Other \_\_\_\_\_

Policy and Fiscal Note is attached.

Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

 9/28/17  
David A. Bretl Date  
County Administrator/Corporation Counsel

 9/29/17  
Nicole Andersen Date  
Deputy County Administrator - Finance

If unsigned, exceptions shall be so noted by the County Administrator.

Resolutions:             
Voted: Roll Call/V.C. voice  
Rejected/Referred/Laid Over  
Yes:        Noes:        Absent:  
Date October 10, 2017

**Policy and Fiscal Note**  
**Resolution No. 35 - 10/17**

- I. **Title:** Supporting Reform of Wisconsin's Eminent Domain Laws and Prohibiting the Use of Eminent Domain for Forcible Land Takings by For-Profit Oil Pipeline Companies
- II. **Purpose and Policy Impact Statement:** The purpose of this resolution is to support the reform of Wisconsin's eminent domain laws to protect the property rights of Wisconsin's citizens and prohibiting the state from granting the power of eminent domain to for-profit oil pipeline companies.
- III. **Budget and Fiscal Impact:** Passage of this resolution will have no fiscal impact on the county budget.
- IV. **Referred to the following standing committees for consideration and date of referral:**


Committee: Executive Committee

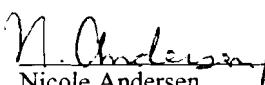
Meeting Date: September 11, 2017

Vote: 5-0

County Board Meeting Date: October 10, 2017

Policy and fiscal note has been reviewed and approved as an accurate statement of the probable policy and fiscal impacts associated with passage of the attached resolution.

 9/28/17  
\_\_\_\_\_  
David A. Bretl                      Date  
County Administrator/Corporation Counsel

 9/29/17  
\_\_\_\_\_  
Nicole Andersen                      Date  
Deputy County Administrator - Finance