

**SYNOPSIS: Support Reform of Wisconsin Eminent Domain Law  
INTRODUCED BY: Executive Committee**

**To the Honorable Board of Supervisors of Columbia County:**

WHEREAS, both the 5<sup>th</sup> Amendment to the United States Constitution and Article I, Section 13 of the Wisconsin Constitution prohibit the taking of private property for public use without just compensation; and,

WHEREAS, taking private land against a landowner’s will is a power of the state that should be used only rarely and exercised with solemn deliberation; and,

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

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

WHEREAS, studies have shown: 1) the threat of eminent domain reduces property values and the tax base, an effect known as “condemnation blight”; 2) for long-term economic growth it is crucial for landowners to trust that their property rights are secure; and, 3) government land takings for private development rarely result in a net economic gain. (Reference: Som, I. 2015. The Grasping Hand, Kelo v. City of New Long & the Limits of Eminent Domain. The University of Chicago Press, Chicago, 356 pp.); and,

WHEREAS, a for-profit company intended for the benefit of its investors does not meet the U.S. and Wisconsin Constitutional standards of land takings only for public use; and,

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

WHEREAS, other states have taken action to protect citizens’ property rights and prohibit the abuse of eminent domain powers by for-profit oil pipeline companies. State actions include: 1) South Carolina’s Governor in June 2016 signed a three-year moratorium on the use of eminent domain by oil pipeline companies; 2) Georgia in 2017 passed a bill providing additional safeguards to landowners dealing with for-profit pipeline companies; 3) North Carolina has proposed a state constitutional amendment limiting the use of eminent domain to only land takings that meet the criterion of public use such as roads; 4) Nebraska, Iowa, and Illinois are considering bills to limit the abuses of eminent domain by oil pipeline companies; and,

WHEREAS, all authority to grant eminent domain power to oil pipeline companies resides solely at the state level, namely the Wisconsin Public Service Commission. Unlike natural gas pipelines, no Federal government agencies have authority over land takings by oil pipeline companies. Therefore the State Legislature possesses the sole power and authority to revise State Statutes to limit the abuses of eminent domain and restore property rights to Wisconsin citizens; and,

WHEREAS, residents in Columbia County are threatened with the potential of having their land forcibly taken for an oil pipeline, for private financial gain with little or no public benefit.

NOW, THEREFORE, BE IT RESOLVED THAT, the Columbia Board of Supervisors hereby resolves to express its desire to the Wisconsin State Legislature and Governor to reform eminent domain laws to protect the property rights of Wisconsin citizens and prohibit the State from granting the power of eminent domain to for-profit oil pipeline companies; and,

BE IT FURTHER RESOLVED THAT a copy of this Resolution be sent to Governor Scott Walker, all Columbia County State Senators and Assembly Representatives, to the Public Service Commissioners, and to the Wisconsin Counties Association.

60 Fiscal Note: None.  
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62 Fiscal Impact: None.

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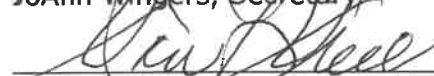
Barry Pufahl

  
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James E. Foley

  
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JoAnn Wingers, Secretary

  
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Dan F. Drew, Vice Chair

  
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Vern E. Gove, Chair

EXECUTIVE COMMITTEE

STATE OF WISCONSIN  
COUNTY OF COLUMBIA  
CERTIFIED COPY

I certify that this is a true and exact copy  
of the original of which I am legal custodian  
for the County Clerk of Columbia County.

Signed by  
  
\_\_\_\_\_

County Clerk or Deputy County Clerk

Date 12/19/18