

Broad Coalition Calls on Governor Evers to Veto Felony Trespass Bill



FOR IMMEDIATE RELEASE: November 19, 2019

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MADISON- A [letter signed by 37 organizations](#) was sent to Governor Evers' office earlier today asking him to veto the Felony Trespass Bill. The letter included sign-ons from the Menikanaehkem Inc., the ACLU, Sierra Club, landowner group 80 Feet is Enough!, and many others. The bill would make it a Class H Felony (6 years or \$10,000 fine) for trespassing or damaging property on land "owned, operated, or leased" by energy companies, including pipelines.

"Across the country and here in Wisconsin, people concerned about the climate crisis have been exercising their constitutional right to protest. This proposal would put these demonstrators—who are often members of Native American tribes—at risk of being criminally prosecuted for engaging in peaceful, nonviolent civil disobedience. Governor Evers has the chance to do the right thing by vetoing this bill," said **Chris Ott, Executive Director of ACLU of Wisconsin**.

"In a state where our prisons are 33% over capacity, the last thing we need is a law that creates more felons. There are already laws in place to deal with people who harm others and who do serious damage to other people's property. We cannot create a felony that is tailor-made for people who create an inconvenience for the wealthy and powerful. That is un-American, and a furtherance of the discredited and wasteful strategy of using incarceration as a solution to every problem -- or, in this case, a non-problem," stated **David Liners, Executive Director of WISDOM**.

Philomena Kebec, Bad River tribal member and attorney who represents Native Americans of limited means in tribal and county courts, is concerned about the disparate effect that the felony trespass law may have on Native Americans and other racial minorities. She said, "the trespass law requires no showing of intent to harm property or people for a felony conviction; instead, it operates to transform a simple trespass into a felony offense at the behest of a private company. These types of "status" offenses, like drug crimes that only require law enforcement to show that a person was in possess of a controlled substance, have had devastating impacts on Native American, black and brown communities. With these kinds of laws on the books, the

implicit bias of law enforcement agencies, and now corporations, are unleashed to target Native Americans and others, for severe and life-changing legal consequences. In my community, on any given day of the week, Native American people constitute the largest demographic of jail inmates. If SB 386 is passed, I believe that it could worsen the situation and create unnecessary tension between the community and law enforcement.”

Landowners who have easements with pipelines and other infrastructure covered in this bill have reason to be concerned. Some of these landowners have the pipelines as a result of eminent domain and now worry about the impacts of this bill on them or their guests. The bill could result in further loss of control of their own land. **Mark Borchardt, founder of 80 Feet is Enough! and landowner along the Enbridge Line 61 pipeline corridor** stated, “Thousands of Wisconsin homeowners are subject to land easements held by oil and gas pipeline companies. Under this bill, it is not inconceivable that Wisconsinites could be charged with felony trespass on their own land, just for opposing pipeline company activities on the easements.”

“The Felony Trespass Bill (AB 426 or SB386) is not only a threat to our democracy, it is an imminent threat to our people, land, water, and heritage as a state. Indigenous people and landowners in Wisconsin should not fear arrest on their own land for trying to protect and preserve it for future generations. The real crime here would be passing such a damaging and destructive bill that empowers fossil fuel corporations to further harm our health and threaten the lives of our residents. These same corporations are the most culpable for the climate crisis that threatens Wisconsin's economic future and the livelihood of its people. We must not let this stand,” said **Leah Qusba, Executive Director of the Alliance for Climate Education in Wisconsin.**

Elizabeth Ward, of Sierra Club Wisconsin, stated, “this bill attempts to create solutions for problems that do not exist, but creates a number of new ones. The bill opens up scenarios where peaceful protesters, landowners or tribal members could be arrested for trespassing and charged with a felony, even if it's their own land. Why pass a bill that opens up this possibility when it solves no other problem? Instead, the focus needs to be on real solutions for climate change, not expanding the power and resources fossil fuel companies have”

“This bill will not only stifle environmental protest against unsafe oil and gas pipelines but it will have a disproportionate impact upon tribal members exercising their treaty harvest rights around oil pipeline corridors on reservation lands. This is environmentally racist targeting of Native Americans and deserves to be vetoed,” stated, **Al Gedicks, emeritus professor of environmental sociology at the University of Wisconsin-La Crosse** and executive secretary of the Wisconsin Resources Protection Council.

“The felony trespass bill would have a disproportionate effect on Native American communities in Wisconsin whose lands are affected by pipelines and oil and gas projects. Tribal members who exercise their treaty right to hunt, fish and gather in the ceded territory of Wisconsin, comprising the northern third of the state, may be subject to arrest for unknowingly trespassing on energy industry infrastructure. Passage of this legislation would infringe on these harvest rights and interfere with federally-recognized treaty rights. Neither the energy industry nor the state of Wisconsin has consulted any tribal government about how this legislation would infringe on the sovereignty of Wisconsin's twelve Indian Nations,” said **Maria Haskins of Menikanaehkem Inc.**

Though it makes exemptions meant to protect protestors, the groups worry that this bill will have a chilling effect on protests, as has been seen in other states that have passed similar ALEC-inspired bills. **Guy Reiter, Executive Director, of Menikanaehkem Inc** stated, “this bill is just another example of the government trying to squelch peaceful protest. It's another tactic used to try and silence water protectors.”

“The felony trespass bill on Governor Evers' desk is a dangerous threat to the balance of power between our government and our people. As a former police officer, and Green County District

Attorney, I know the tremendous power our government has to arrest and imprison people; and I have seen the abuse of that power. We depend on our government to keep us safe, but we must maintain the delicate balance between personal freedom of action and expression and the need for coercive government action. As a society, we have been moving in the direction of granting government too much power over its citizens. AB426/SB386 is another dangerous move in this direction. We have more than enough laws to protect property. We do not need this new law that will enhance punishment for activities that are already illegal,” said **David Leeper, former District Attorney and Police Officer.**

“This bill is the latest example of government of the corporation, by the corporation and for the corporation. Allowing this bill to become law will put people living along the pipeline corridor in a potential double whammy of legal problems with Enbridge. Let's not forget that Enbridge was behind the push to revise Wisconsin's eminent domain statute during the budget process in 2015 to assure that they were granted the power to condemn private property if people are unwilling to grant more of their land for new easements for the possible construction of a new "Line 66" pipeline along the existing Line 61 corridor,” said **Keith Merkel, member of 80 Feet is Enough! and landowner along the Enbridge Line 61 pipeline corridor.**

“The law is currently designed to protect utilities that provide important services to homes and businesses such as heat, power, and light. That makes sense because the disruption of those services can put lives at risk during extreme hot and cold weather. This bill, however, expands the law to cover infrastructure like oil pipelines that operate in entirely different contexts and creates a felony where one previously didn't exist. Without express permission from an oil company to be on a pipeline easement, you could be prosecuted for being on your own land, or even public land,” said **Rob Lee, staff attorney with Midwest Environmental Advocates.**

“Time to protect the public and the future from extreme extraction predators rather than the profits and infrastructure of foreign corporations,” stated **Paul De Main, Chair of Honor the Earth.**

Scott Pitta also pointed out the inconsistency, “Under SB 386, pipeline employees who trespass on private property are charged with a misdemeanor, but landowners who trespass on pipeline land will be charged with a felony. This is inconsistent and unjust.”

Phyllis Hasbrouck, Wisconsin Safe Energy Alliance organizer, said “This bill could result in a landowner who was forced to accept a dangerous tar sands oil pipeline through their land, being charged with felony trespass for confronting pipeline subcontractors doing unauthorized damage to their land! The bill clearly states that it would be a Class H felony to trespass on ‘property owned, leased, or operated by energy companies engaged in the distribution of oil and petroleum.’ We call on Governor Evers to protect the property rights of WI residents and veto this bill that is being pushed by the American Petroleum Institute.”

“Despite its “first amendment exemptions”, this bill is designed to intimidate Wisconsin citizens from exercising their right to dissent, for fear of arrest and expensive legal defense costs. For example, our members could be charged with felonies for protesting the proposed Line 61-twin or Line 66, which would carry toxic tar sands oil through Wisconsin to the Gulf coast and export. The fossil fuel industry is pushing this bill to protect their billions of dollars of profits. It is essential that Governor Evers veto it if it is passed by the Senate,” explained **Gail Nordheim, Co-Coordinator of 350 Madison.**

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