



MEDIA ADVISORY

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Court Hearing on the Legality and Enforceability of Dane County's Cleanup Insurance Condition for Enbridge's Waterloo Pump Station Tuesday, September 27, 10:00 a.m., Dane County Circuit Court

Two lawsuits involving Enbridge Energy will be heard in Dane County Circuit Court on Tuesday, September 27. These cases represent the latest development in the standoff between Dane County and its citizens and the \$43 billion Canadian pipeline company over its expansion plans.

WHAT: Hearing on *Campbell v. Enbridge* and *Enbridge v. Dane Co.* (Judge Peter C. Anderson presiding)

WHEN: Tuesday, September 27, 10:00 a.m.

WHERE: Dane County Courthouse, 6th Floor, Courtroom 6A, 217 S. Hamilton Street, Madison

350 Madison won a significant victory 17 months ago when the Dane County Zoning Committee required that Enbridge obtain cleanup insurance to protect county taxpayers against the enormous remediation costs of a spill. Dane County imposed the requirement as a condition of approving Enbridge's Waterloo pump station, which is part of the company's plan to triple the volume of tar sands oil flowing through Line 61. At full capacity, the pipeline would carry 1.2 million barrels per day through the state, 45% more than the now-rejected Keystone XL.

Enbridge v. Dane County concerns Enbridge's demand that Dane County remove the insurance requirement from the pump station permit on the basis that it was invalidated by a state budget provision adopted as part of the 2015–17 state budget. The county has refused to acquiesce to Enbridge's demand, arguing that the insurance requirement was foundational to its approval of the permit, and that without the requirement, the permit could not have been granted at all under the standards set by [section 10.255\(2\)\(h\) of the Dane County Ordinances](#). Under those standards, a permit may be granted only if the conditional use will not be detrimental to or endanger public health and safety or impair or diminish the use and enjoyment of other property in the neighborhood.

In a parallel case, *Campbell v. Enbridge*, seven landowners with property adjacent to the pump station assert that even if the state budget provision, apparently inserted at Enbridge's behest, bars the *county* from enforcing the insurance requirement, it does not similarly bar enforcement by affected landowners, who are authorized to enforce zoning permits by [section 59.69\(11\) of the Wisconsin Statutes](#). The landowners further argue that the budget amendment was not retroactive to the time of the Zoning Committee's original decision to require cleanup insurance. Enbridge has moved to dismiss the complaint. The landowners ask the court to enjoin Enbridge from opening its expanded pump station unless it has purchased the cleanup insurance demanded by the Zoning Committee.

The landowner lawsuit was originally assigned to Judge Richard Niess, but he consolidated it with Enbridge's case before Judge Peter C. Anderson because of numerous overlapping issues. Judge Anderson heard argument on motions for summary judgment and dismissal in both cases on July 11. At the conclusion of that hearing, he asked for new briefs and set the September 27 date for a hearing on the question of whether the Zoning Committee could have granted the pump station permit without the insurance requirement.

The September 27 hearing will be held in Courtroom 6A of the Dane County Courthouse. The hearing is open to the public, and Judge Anderson has indicated that he will rule from the bench.

These legal papers are available online:

- [Landowner Plaintiffs' Brief in Support of Affirming ZLR Action or Remanding to ZLR](#) (8/23/16)
- [Enbridge Initial Brief in Consolidated Action Before Judge Anderson](#) (4/25/16)
- [Landowner Response to Enbridge Motion to Dismiss](#) (3/24/16)
- [Enbridge Motion to Dismiss Landowner Lawsuit Against Enbridge for Enforcement of Insurance Provision](#) (3/2/16)
- [Landowner Lawsuit Against Enbridge for Enforcement of Insurance Provision: Complaint for Injunction](#) (2/8/16)
- [Enbridge Petition for Writ of Certiorari Against Dane Co., Dane Co. ZLR, and Dane Co. Bd. of Supervisors](#) (1/4/16)

Additional background can be found on the [350 Madison website](#).

Questions? Looking for an interview? Contact Peter Anderson, 608-231-1100 / cell 608-444-2817, anderson@recycleworlds.net.

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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.