

# Madison Climate Action Team: Wisconsin Supreme Court grants review in *Enbridge v. Dane County*

Posted on Thursday, Sep 13, 2018

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## **Wisconsin Supreme Court Grants Review in *Enbridge v. Dane County***

The Supreme Court has agreed to take up Enbridge's appeal of the May 24, 2018, Court of Appeals decision in *Enbridge v. Dane County* (background[here](#)). That decision effectively ruled that the Canadian pipeline company did not qualify for the [budget amendment](#) that sought to bar a county from requiring a pipeline company to purchase spill cleanup insurance.

The Supreme Court's decision is surprising to say the least. Review by that court is rarely granted and is limited to cases of major import involving complex questions of law. The case at hand presents no such complex questions, involving only elementary rules of evidence taught in first-year law school.

The budget amendment in question—introduced anonymously at the 11<sup>th</sup> hour and benefiting only Enbridge, although the company denies any role in its drafting—attempts to bar a county from imposing an insurance requirement on a pipeline company only if the company meets a certain condition. That condition requires that the company already carry a specific form of insurance called *sudden and accidental coverage*. The Court of Appeals held that Enbridge had to produce its insurance policy so it could be determined if it has that coverage. Enbridge objects, insisting that it only need claim to have it, even though, in fact, [it does not](#).

What could have legitimately caused the Supreme Court to consider this case

worthy of review? The question is a matter of grave concern. At issue is a standoff between a county trying to protect its citizens from the costs of a catastrophic spill and a \$130 billion foreign company accustomed to calling the shots. The Legislature appears to have done Enbridge's bidding in adopting the budget amendment barring county action. Is the Supreme Court likewise bending to Enbridge's will?

Back in 1873, an earlier chief justice of the Wisconsin Supreme Court, Edward Ryan, warned of the danger from "vast combinations of unexampled capital," asking "Which shall rule — wealth or man?" The Supreme Court's decision to take up this case raises that same question.