

## Testimony to Senate Judiciary Committee

Chairman Eklund and members of the Judiciary Committee, my name is Alison Grant and I live in Bay Village, Ohio, and I'm here today to present opponent testimony to Senate Bill 33.

The genesis of this bill is the clash between the fossil fuel industry and critics who oppose pipelines, cracker plants and other oil and gas facilities that they believe pose a danger to health; are polluting land, earth and water; and contribute to the destabilizing of Earth's climate.

SB 33 says it is aimed at protecting critical infrastructure. As the justification for the legislation, that rationale deserves to be carefully examined. In doing so, it becomes clear that the rationale is exceedingly flimsy.

First is the striking fact that there are existing provisions in Ohio law to prohibit "criminal trespass," "aggravated trespass" and "criminal mischief" to property. Laws affecting anyone trespassing or committing vandalism are already on the books, and have been for a century or more, with penalties to discourage such actions.

However, SB 33 would ramp up penalties in a harsh way for vaguely defined infractions – a formula designed to intimidate citizens who engage in non-violent protest at oil, gas and pipeline projects. The legislation says no person shall enter or remain on a critical infrastructure facility with, quote, "the purpose to destroy or tamper with" the facility.

Think about that for a minute. The bill doesn't say "destroy or tamper with." It says "the purpose to destroy or tamper with." In other words, it describes a violation that has to do with knowing intent in the mind of a protestor. Violations of this nebulous, mind-reading provision could result in prison terms of nine months to 5 years and fines of up to \$10,000.

Also, any organization found guilty of "complicity" in the alleged violation could be punished with a fine that is 10 times the maximum for individuals, or \$100,000.

The bill also holds that a person or organization that pays a violator's fines or damages in a civil action can be held "vicariously liable" and may face fines of up to \$10,000 for individuals, or \$100,000 for organizations. This cruel provision is intended to block concerned outside parties – environmental groups, churches, even family members -- from assisting people who engage in peaceful public protest at

critical infrastructure sites.

Another suspect element is SB33's inherent proposition that critical infrastructure is somehow in physical danger because of the actions of protesters.

Yet protests of the type described in the legislation have not occurred in Ohio. The Ohio Chamber of Commerce noted this in its March 22 brief in support of the legislation, saying that disruptions had not occurred in Ohio, but "taking this proactive step would protect Ohio's economy and improve our business climate. "

SB33 does not overtly describe citizen protests at oil and gas facilities as terrorist activities – and does not amend Ohio laws on terrorism that already have high penalties. Moreover, the legitimate vehicle for investigating and preventing actual terrorist threats is the CIA and other intelligence and law enforcement agencies, which are doing this work day in and day out for the country.

Nonetheless, a fear-mongering justification that we need to fend off terrorist threats from protesters exercising their constitutional right to freedom of speech and assembly is the subtext to SB33 -- a dog whistle being used to justify the bill. The legislation is designed to promote a narrative that demonizes protesters.

So what is the bill actually?

It is the spawn of the Koch brothers-funded American Legislative Exchange Council, and closely mirrors model legislation drafted by ALEC's corporate lobbyists. The designers of this model legislation -- a version of which is before you today – are none too pleased with the environmental movement and with protests against pipelines and fracking, which have proliferated in east central and southeast Ohio.

SB33 is designed to suppress protests such as the highly publicized one led by the Standing Rock Sioux against the Dakota Access Pipeline along the border of North and South Dakota. Many in the Standing Rock tribe believed that the pipeline posed a threat to its water source, the Missouri River, and to sacred tribal sites.

I've lived in Ohio for many years, but I grew up in western Minnesota, and every summer for many years my parents would pile us all into the car and we'd head out to a place most people have never heard of – Harding County, South Dakota. We'd pitch our tents on top of pine-scented buttes.

I Googled a few days ago to see how close Harding County was to Standing Rock and

was sickened to learn that Harding County – that beautiful place of sage bush and big sky – is where the Canadian-owned Keystone XL Pipeline will enter South Dakota.

You have to ask yourself when you consider the fossil fuel power against which protesters array themselves why the industry is so nervous. After all, the fossil fuel sector, the Koch brothers, Exxon, Mobil – these represent some of the most politically connected, economically mighty forces in history.

Why do they need this unconstitutional overkill to try to silence the protected right of Americans to speak out against and demonstrate against projects they feel are deeply damaging to people and the environment?

Critical infrastructure isn't in danger. But perhaps their reputation is. Perhaps they know that the one thing that is stronger than corporate power is the power of people to agitate for change.

