

Mississippi Backwaters Cut Off to Citizens by Railroad “Police”

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Sen. Kathleen Vinehout is working on a bill to restore the ability of people to cross railroad lines to access public lands. Laws meant to protect energy providers from protesters are being felt by folks who cross over land to access public areas, such as fisherman along the Mississippi River. A new Republican bill (AB 547) could make matters worse.

LA CROSSE, WI - One of the best spots to ice fish is south of Alma just down the dugway from Carrol Iberg’s rural home.

Down there “ice fishing is really good,” Mr. Iberg told me. He fished five days a week and caught mostly pan fish, and a few northern and bass.

To get to one of the most accessible ice fishing areas around, just south of the power plant, you have to cross the railroad tracks.

The rail is owned by BNSF. The company is exerting its authority to enforce a trespassing law by hiring railroad “police” to guard the track.

Mr. Iberg did not think much of a black Tahoe parked along the highway when he went fishing. However, he was surprised when a uniformed “state trooper-looking” person with a gun on his hip threatened him. The rail “police” said Mr. Iberg was trespassing on railroad property by

crossing the tracks to get to his fishing hole.

“What bothers me about this,” he said to me. “It’s something I’ve done all my life.”

I asked how long he has fished here. “Approximately 68 years. And I’m 75. My Dad took me and my brother here forever.” He asked me if I thought he had an “adverse possession” claim on the land – like farmers who farmed the same land for 20 years even though the land technically belonged to a neighbor.

I am not sure about the “adverse possession” claim, but threatening Mr. Iberg for ice fishing is going too far.

Rail lines run all along the Mighty Mississippi on Wisconsin’s west coast. For generations, anglers, birders, hikers, hunters and other outdoors enthusiasts crossed the tracks to get to publically owned – and otherwise inaccessible – land.

Long ago, when the rail line was built, people say all kinds of easements and agreements were put in place to assure locals kept access to the lands on the other side of the tracks.

Now the railroad is acting to cut off access to 230 miles of Mississippi River backwater and public lands by enforcing a 2005 law that eliminated the right of the public to cross the tracks.

A bill written by Representative Nerison, and others including myself, would return the law to its pre-2005 language. Rep. Nerison, in testimony at a recent hearing, told lawmakers the bill would restore public access to over 100 state-owned properties.

George Meyer, representing the Wisconsin Wildlife Federation, testified public properties accessible only by crossing rail lines include state, county and national forests, US Fish and Wildlife refuges, hatcheries, boat access areas, state parks and “scores of other public properties owned by local units of government.”

The railroad lobbyist testified, "safety is the primary reason, but not the only reason we oppose the bill...it also creates opportunities for the many groups who protest crude by rail and other hazardous goods moved by rail."

Concerns about protesters evidently led power, gas and transmission companies to lobby for another law to penalize trespassers; including prison time.

I told Mr. Iberg he should know Assembly Bill 547 would make trespassing on power company land a felony – with a \$10,000 fine and maximum imprisonment of six years.

"How can they enforce this?" He asked. "When they built the power plant... They pleaded with us to sign on to allow them to put a turnaround [in the public land]... they wanted us to say it was OK to put in the [coal train] turnaround. They were still going to let us fish [inside the circular track.]"

During Senate debate, I explained the Alma power plant is very close to prime ice fishing public land. Inadvertent trespassing on power plant land should not land ice anglers in prison. But it wasn't until I spoke with Mr. Iberg that I realized the power company built ON public land and prime fishing holes were INSIDE the power company's circular tracks.

"What happened to America the Land of the Free?" I asked Mr. Iberg. "Exactly" he said. "There's no use in living by a river if you can't use it."

That would be OUR River, and OUR public lands. Or it used to be.

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