

Landowners back yearly rentals for power lines

## Eminent domain returns

DUSTIN BLEIZEFFER Casper Star-Tribune | Posted: Tuesday, February 9, 2010 12:00 am |

CASPER — Platte County rancher Bob Whitton likens the power of eminent domain to brandishing a gun in an argument.

The person with the gun doesn't have to use it in order to persuade the person without a gun.

"The threat is there without having to use it," said Whitton, chairman of the Renewable Energy Alliance of Landowners, or REAL.

Wyoming leaders are once again rethinking the power of eminent domain in the midst of a modest boom in wind energy.

Last week, Gov. Dave Freudenthal said he would ask the Legislature to impose a one-year suspension of eminent domain powers to merchant companies wanting to connect wind turbines to the electrical grid.

He said a timeout is needed to contemplate the use of eminent domain, but only the realm of "collector" lines for wind energy.

In Wyoming, a private entity can take someone else's private property for its own economic gain.

This was the source of a lot of heartache among some ranchers during Wyoming's most recent natural gas boom. Some groups said that, rather than serving the greater public interest, eminent domain was invoked for limited corporate gains.

Those concerns led to some modest modifications of the state's eminent domain laws in 2007. However, Freudenthal made clear that he wants the discussion today limited to electrical power lines and not roadways, oil and gas, or railroads.

REAL is a group of about a dozen landowner associations in eastern Wyoming trying to attract commercial-scale wind energy development as a means to supplement ranching incomes.

While those ranchers hope to make money from the wind turbines themselves, they don't want their neighbors who don't have wind turbines overrun with power lines and no compensation for it.

Rather than just making a one-time payment to a landowner — as is the case when eminent domain is used to gain an easement — Whitton said his group would like to see those landowners receive an annual payment.

"If this sparks that discussion to where people get serious about paying a reasonable annual payment to landowners who get a transmission line through them, I'm going to support it," Whitton said.

The Wyoming Stockgrowers Association represents landowners on both the pro- and anti-wind sides of the fence.

So it likes the idea of annual rental payments for power line easements.

"We would like to see some level of equity established, where a landowner is able to bargain for some annual payment without the threat of eminent domain," said Jim Magagna, executive director of the Wyoming Stockgrowers Association.

In the past, utilities argued that orchestrating annual payments to many landowners over 1,000 linear miles would be a bookkeeping nightmare.

But the threat of unified opposition to electrical transmission — whether it's small collector lines or large interstate transmission — may be a bigger nightmare.

"It might make things a lot easier getting things across Wyoming and across Utah and Idaho because those are passenger states," Whitton said.

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