

Wind Energy Task Force hears concerns

By NICHOLAS DEMARINO - Rawlins Daily Times | Posted: Sunday, July 11, 2010

SARATOGA -- Imagine this: a row of windmills spins in the distance. A collection line runs from the windmills across a private area -- maybe even two or three -- and eventually taps into a main transmission line. From there, its electrical power is shot across Wyoming via an assortment of mechanisms near, next to and on top of land representing myriad owners and interests.

How much were the owners compensated? Was it a one-time payment or is it ongoing? Is all of that public knowledge? What if the owners objected? Could they have been forced to allow construction?

Eminent domain law, just compensation and defining collector systems were among the topics discussed during the Wyoming Task Force on Wind Energy's conference in Saratoga.

Eminent domain -- the governmental acquisition of private property via condemnation for public use -- was discussed in terms of legal definitions and Wyoming history.

Terry Weickum, Carbon County Commission chairman who attended the event Thursday, said the issue is particularly salient for Carbon County given the roughly 51 wind farms proposed in the county this time last year, two of which have come to fruition.

"Not all of them will be built, but [it's] guaranteed some will," Weickum said.

The results of which may mean the implementation of eminent domain or condemnation authority.

"What if you own a piece of land and you do not want a power line across your land, but they came in, condemned your land, handed you a check and said, 'We're putting it across your land anyway?'" Weickum said. "That's going to happen; that's what eminent domain does. When that happens our constituents will be voicing their concerns to us, and it'll be something we have to have a thorough understanding of."

During the public comment portion of the event, a Rocky Mountain Power representative said it was critical for the company to continue exercising eminent domain.

"Providing electrical service has long been recognized as a fundamental service, similar to roads and other infrastructure that's typically provided governmental entities," said Jeff Richards, Rocky Mountain Power attorney. "In order to carry out our duty of providing this fundamental service of electricity to the citizens of this state and to our customers, Wyoming law provides we have the right of eminent domain."

Jim Magagna, Wyoming Stock Growers Association executive vice president, discussed the compensation of private landholders.

"There's an inequity. The marketplace ought to be allowed to work equally for all of the players, whether land owners that are recipients of wind towers or land owners that are recipients of collector lines," Magagna said. "If we want private land owners to get more, we're going to have to give somewhere. We do recognize the pot of money ... is finite if the wind developers are going to remain competitive in the marketplace."

Although he said it was not the function of government to mandate amounts, it is their responsibility to set the stage.

"I'd like you to put the two different participants involved in this in a position where they have the same bargaining power for whatever they're entitled to," Magagna said. "I would encourage you not so much to

look at changes in eminent domain laws or just compensation, but rather look at what are the conditions that should be precedent to the exercise of domain."