

High Country News

December 18, 2007

Comments

Comments

By Glenn Sugameli

Thanks for your in-depth article on these courtroom battles. So-called "property rights" activists, whose agenda would hurt the property and other rights of homeowners and average Americans, also push for extreme legislative proposals.

On December 13th, Sen. Wayne Allard incomprehensibly cosponsored, spoke in favor of, and voted for, a bizarre Sen. Larry Craig farm bill amendment. Fortunately, Sen. Ken Salazar was joined the overwhelming bi-partisan opposition in the 37-58 vote, e.g., Republican Senators voting no included Utah's Sen. Bennett and both Republican senators from Alabama.

The Craig/Allard amendment would allow farm and grazing land to be condemned for private development, pipelines, and prisons. But it would ban all eminent domain to acquire land for a public park, conservation or public recreation.

One inadvertent taking of an acre would shut off all federal funding to a state or locality for five years. This would cost untold lives and suffering by denying funds needed to save people from deadly flu epidemics, natural disasters, toxic pollution, and other threats. If the original owner died, it would be impossible to end this five-year fund cutoff.

Sen. Allard's Floor speech falsely stated "that this amendment would not affect uses of eminent domain that have been found to be justified." In fact, it would inflexibly ban eminent domain for public parks that even Justice Clarence Thomas recognized has been a quintessential public use since the Founders. In 1896, the Supreme Court unanimously held that eminent domain to acquire land for Gettysburg National Battlefield Park was "not only a public use" it had "the purpose of protecting and preserving the whole country."

The Craig/Allard approach would unconstitutionally render state and local governments obsolete. If Congress could do this for one taking, threatened federal fund cutoffs could bludgeon states and localities into submission to federal micromanagement on every issue.

Earthjustice and other conservation groups joined local and state government organizations in opposing this draconian infringement on federalism and traditional rights of states and localities to create public parks and conserve essential resources and recreation areas.

Glenn Sugameli

Senior Legislative Counsel

Earthjustice

Washington, DC