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Commentary

Comments by Earthjustice's Glenn Sugameli

The amendment offered by Sen. Larry Craig and Sen. Wayne Allard was even more bizarre and draconian than described in your well-written report. Fortunately, Sen. Ken Salazar joined the overwhelming bi-partisan opposition including, e.g., Utah's Sen. Bob Bennett and both Republican senators from Alabama.

The Craig/Allard amendment would deny all federal funds for five years not only to localities, but to states that used eminent domain to acquire any amount of farm or grazing land for a public park, conservation or public recreation. If the original owner died, it would be impossible to end this five-year fund cutoff.

If Sen. Allard really believed in property rights, he would understand that this would deny the funds needed to protect private property, and to save untold lives from natural disasters, toxic pollution, and other threats. He would also not support an amendment that singled out parks, while allowing farm and grazing land to be condemned for private development, pipelines, and prisons.

Sen. Wayne 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, D.C.