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Letter to the Editor

Allard's outrageous attack on federalism

Glenn Sugameli of Washington, D.C. writes:

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Sen. Wayne Allard incomprehensibly cosponsored, spoke in favor of, and voted for, a bizarre Sen. Larry Craig farm bill amendment. Fortunately, Sen. Ken Salazar voted no and was joined in the 37-58 vote by overwhelming bi-partisan opposition, 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 time of 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 incidental taking, threatened loss of all federal funds could bludgeon states and localities into submission on every issue and federally micromanage every traditional local and state government function.

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

www.earthjustice.org/policy/judicial/