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Opinion

INDEPENDENT RECORD
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Safeguard private property rights

By JILL COHENOUR

YourTurn

During my time in public service, one thing has proven true time and again: private property rights are a core value for Montanans, from the largest ranchers to those who may own very few, yet symbolic acres of land. Growing up in Havre and being elected to serve the residents of this state instilled a passion for protecting private property rights and made it a priority in my public service.

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All of us are familiar in some way with the concept of eminent domain. Our communities depend in many ways on our ability to build and maintain such things as highways, utility lines and gas pipelines — when these projects are a true "public use" as envisioned by the framers of the U.S. Constitution. However, when these projects hide behind "public use" for "private gain," we all lose.

Unlike utility lines or roads, the eminent domain laws that pertain to railroads in many states, including Montana, do not force a developer to make a case that the public will truly benefit from their proposed project. There is no significant hurdle for railroads to cross before eminent domain proceedings can begin.

Our acceptance of this ability to override personal property rights to benefit of causes that are often tied to special, foreign and private interests while depriving landowners of their property does not fit with the core values of Montanans. It is time that we, as Montanans, address this irony.

Montana landowners and ranching families deserve better. Right next door, the South Dakota Legislature has enacted legislation requiring a railroad to demonstrate its proposed project provides a public use and is a public necessity before it is allowed to condemn private property.

By so doing, South Dakota and a number of other states have instituted a system that allows for significant public input and community discussion. Before we allow the condemnation of our land, shouldn't we at least have a public debate here at home about the benefits to Montana families and communities?

I believe we should, and that's why I am working on legislation similar to the South Dakota model to ensure that all of us have a say in the construction of something as intrusive as a railroad. Projects that provide a public benefit would be approved — those that do not, will not make the cut. Montana must chart our own unique path towards protecting landowners throughout the state. This would be a positive change to the current system.

The change in law that I am introducing would not prevent the government from exercising eminent domain in situations where doing so is truly vital to the public interest of the state citizens. It would, however, ensure that the person or institution seeking to use eminent domain has the burden of proving that the exercise of eminent domain is a public use consistent with public necessity.

This is an issue that affects Montanans of all backgrounds and political affiliations. I am asking for your support in protecting the sanctity of private property rights throughout our state and to join me in efforts to safeguard the values that make up the very character of Montanans. It's our land; we should have a voice.

JILL COHENOUR *of East Helena represents House District 78.*

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