

COMMENTS ON HOUSE BILL NO. 412

Mr. Chairman, members of the committee, my name is Bruce Maurer. I am a farmer from Power, Montana. I have been dealing with the MATL organization since 2005, so I know a little about landowner relations with someone who has eminent domain power. Landowners were the least of their concerns. The Northwestern Energy lobbyist is fond of saying Northwestern almost never uses eminent domain but they need it to get landowners to negotiate. I can tell you, negotiating with MATL was like a fly trying to negotiate with a fly swatter. We made no headway with them until the Western Area Power Administration found out what was going on up here and put pressure on MATL to get things settled.

The most important part of this bill is that it forces the party who has the power to condemn, to meet with affected landowners in the early planning stages of a project, rather than get their plan approved and then say that it can't be changed. A project which has a Certificate of Compliance under the Montana Major Facility Siting Act actually can be changed, but the only entity who can request an amendment is the one to which the certificate was issued. HB 412 clarifies the current requirement that the condemnor do the least amount of private damage for the greatest public good. A MFSA certificate does not consider this criteria. The landowner is in the best position to determine the least amount of damages for the greatest public good.

In 2005 a representative of MATL contacted me for an option for an easement to build a power line paralleling a line built by Montana Power in the seventies. We discussed the line, and my mother, who owned the property in question, consented to the option. In 2006, the same person contacted me and said there had been some changes and he would like to come and talk to me about them because he didn't think I would like the line right next to our house. We discussed the situation and agreed on a route that was a mile away from the buildings. I signed an option for this route. This is the way I think these situations should be handled, but later on they weren't. The next time I heard from MATL was three years later, when everyone they wanted easements from got maps of the route, and an invitation to a meeting to explain how construction was going to unfold. Some of the people who got these letters had no idea they were going to be

involved with a power line. When I asked why the line wasn't going where MATL and I agreed it was supposed to be, and why I hadn't been informed of this change, I was told I was sent an Environmental Impact Statement and that was the notification. This EIS, which resembled a catalog over an inch thick, included maps with colored lines representing different routes. It only took three pages of maps to cover the area between Great Falls and the Canadian border. The only landmarks on the maps were Interstate 15, Highway 87, and the main towns on the highways. There was no way a novice could tell exactly where each route was or whose land it was on. Apparently DEQ had made changes, called one the preferred route, and that was the way it was going to be. I asked why the route on our land was changed, including adding two additional corners, but no one could come up with a reason. It just happened and couldn't be changed back. I suggested a route that moved the line away from our buildings and eliminated two corners which was almost exactly what had been agreed upon in 2006. I spent the next two years trying to get this change. DEQ even tried to widen out the corridor to reroute three different sections of the line to accommodate people, but MATL rejected this solution. Even MATL considered my suggestion a better route than the approved one but refused to ask for an amendment.

After HB 198 was passed in the 2011 Legislative session and subsequently declared constitutional, MATL initiated condemnation proceedings against all the parties they had not settled with. About this time WAPA, who had loaned MATL \$160,000,000.00, got wind of thirty some condemnation actions being filed by MATL and wondered what was going on. They were not happy with what they found, and decided to get things settled. In fact, most of the landowners MATL was in the process of condemning, actually granted easements to the United States of America, Western Area Power Administration. In my case, the easement I granted is for almost exactly the same route I signed the option for in 2006.

There are some other changes that should be made in the siting process, most notably the DEQ should not be selecting routes, only approving or rejecting what the power line company requests. This bill should improve the facility siting process by resolving differences in the early stages, thus eliminating long, expensive, and time consuming legal battles. I urge you to support HB 412.