



February 21, 2023

The Honorable Albert Sommers
Speaker of the Wyoming House of Representatives
Wyoming House of Representatives
200 West 24th Street, Capitol Building
Cheyenne, WY 82002

Re: Veto of HB0106/HEA No. 0033

Dear Speaker Sommers,

After careful consideration, I have determined to veto HB0106, House Enrolled Act No. 33, Eminent Domain - Wind Energy Collector Systems and respectfully ask the Wyoming Legislature to reconsider this subject in a future session.

Eminent domain has been and remains a delicate and problematic issue, which should only be deployed as a last resort because most often one party always prevails at the other's detriment. It is clear the process gives one side an unfair advantage in negotiations and that advantage has been abused in the past. Nevertheless, it remains an important tool recognized in Article 1, Section 32 of the Wyoming Constitution. .

Historically, the right of eminent domain has been available to those seeking access across property as a last resort. This bill would place a nine-plus-year moratorium on the ability to use this last resort. I find the length of this moratorium concerning as it is likely to unreasonably stall wind development in Wyoming and limit the opportunity of property owners who seek to develop wind on their property. Private landowners have the right and opportunity to contract with whomever they choose – including wind developers – for access to and across their property. Many ranchers and farmers in Wyoming have successfully negotiated with wind developers and are enhancing the ability of their lands to provide income for their families. I do not see a reason to differentiate between the right of way for wind collector systems and collection system transmission for other forms of energy.

Wyoming prospers from our energy development and accordingly we have pursued an all-of-the-above energy policy. Landowners benefit when they are able to develop their resources as they see fit. Picking winners and losers in this endeavor is misguided, yet allowing the cudgel of eminent domain to be used to avoid fair and proper negotiation is also wrong. This conundrum

is not unique to wind, but when wind development was novel, a much shorter moratorium unlike the one proposed in this legislation was established to give the industry and landowners an opportunity to resolve concerns. The previous moratorium expired in 2015 and, until that time, had been extended in two-year increments.

I suggest the Legislature examine the extent of use of this eminent domain authority since 2015 and then revisit the need for such a lengthy moratorium. A nine-year moratorium for wind transmission only would unnecessarily burden negotiations and curtail development rather than encourage developers to reach fair and reasonable agreements with landowners. Moreover, eminent domain would remain a concern for conventional transmission and other forms of transmission. Affected landowners would remain subject to condemnation. Because this bill seems targeted at one industry and deprives other landowners of their right to develop the resources of their land, I cannot let it pass into law.

By this veto, I do not endorse any misrepresentations or strong-arm tactics by wind developers to coerce landowners to agree to easements or contracts not in their interest; but I encourage all to be fair and reasonable so that landowners can exercise their private property and contractual rights. Moreover, I urge the Legislature to take up this topic in the interim to consider a more appropriate way to recognize the effects of condemnation and to give affected landowners more weight in negotiation.

Thank you again for your diligence and service to our wonderful State.

Sincerely,



Mark Gordon
Governor

cc: The Honorable Chuck Gray, Secretary of State
The Honorable Ogden Driskill, President of the Senate
Chief Clerk, Wyoming Senate
Chief Clerk, Wyoming House of Representatives