

**Paper:** Face the State Staff Report  
**Date:** Thursday, February 5, 2009

## Railroad companies caught in the middle of eminent domain bill

In Tuesday's Senate Transportation Committee meeting senators voted 4-3 to indefinitely postpone a bill that would have prevented railroad companies from exercising their right to use eminent domain. The bill was in response to CDOT's forthcoming proposal to relocate freight rail away from the Front Range and to eastern Colorado [in order to facilitate the implementation of passenger rail systems in the metro area](#). Trapped in the middle of this legislation were railroad companies, who expressed little desire to relocate or use eminent domain.



Renfroe, Romer, and Kopp FTS Staff Photo

[Senate Bill 63](#), sponsored by Sen. **Greg Brophy**, R-Wray, and Rep. **Cory Gardner**, R-Yuma, would prohibit railroad companies from condemning land through eminent domain. It went on to propose that because of lingering concerns left by federal law, in the event eminent domain was used, railroads must reimburse the property owner for all attorney's fees and other costs related to the condemnation.

Railroad industry insiders tell Face the State the study to relocate rail lines to the eastern plains was originally proposed by CDOT, not the rail carriers. While the rail companies are willing to cooperate with the study they continue to question the need for a massive realignment.

**Dick Hartman**, who testified against the bill on behalf of Union Pacific, said his organization has only exercised the power of eminent domain twice out of the last 74 acquisitions over the past 10 years and emphasized that railroad companies are not looking for opportunities to grab land.

Supporters for the bill included members of the [Colorado Cattlemen's Association](#), [Citizens Against Railroad Relocation](#), and the [Colorado Independent Cattlegrowers Association](#).

"Eminent domain takes away our freedom and our independent way of life," said **Kenny Yoder**, a rancher and CARR member. "The railroad will become a wall that splits our business in half," added John Reed of the Colorado Independent Cattlegrowers Association.

CARR member **Travis Taylor** argued the threat of condemnation for a rail buildout on the eastern plains lowers property taxes and decreases available funding for the already struggling public schools.

After nearly two hours of testimony, the transportation committee voted to postpone the bill indefinitely. Democrats **Jennifer Veiga** and **Chris Romer** both of Denver, **Suzanne Williams** of Aurora and committee chair **Dan Gibbs** of Silverthorne voted along party lines to kill the measure. Republicans **Nancy Spence** of Centennial, **Mike Kopp** of Littleton, and **Scott Renfroe** of Greeley, voted together in support of the bill.

After the vote, Brophy spoke with Face the State. "We wanted this bill to pass because if you take away the threat of eminent domain it forces the railroads to negotiate in good faith with you over the value of your property," he said. "We're not giving up just yet. Representative Gardner and I will continue to fight for property rights and look for opportunities to protect people."

Two other railroad bills have been introduced this session, including [House Bill 1134](#), sponsored by **John Kefalas**, D-Fort Collins, which would create the Colorado Railroad Authority. [Senate Bill 94](#), sponsored by Williams would add a transit and rail authority to CDOT.