

Unnoticed vindication

Dan Hammes, St. Maries Gazette Record

Local property owners were vindicated this month but nobody seemed to notice.

And this is no minor vindication – it comes in the form of an 8-1 decision issued by the United States Supreme Court. What makes the fact the ruling received little local coverage somewhat remarkable is that this very issue sparked considerable debate, heated argument and acrimony in Benewah and Kootenai Counties just a few years ago.

The Trail of the Coeur d’Alenes is among the most popular tourist attractions in northern Idaho. The 10’ wide asphalt trail travels some 72 miles between Plummer and Mullan. It was recently named as one of the top 25 bicycle trails in the entire United States. There is no question it is a fine addition to the area.

The problem is much of the trail may have been built on private property.

Which is exactly what many property owners were saying when the plan for the trail was first revealed. Those property owners argued that when the Union Pacific Railroad abandoned the rail line, the property that the government had granted to the railroad to build the line should convey to the adjoining property owners.

Few people listened.

As is often the case, property rights really are not all that important when the property in question belongs to someone else.

The proposal to build the trail was overwhelmingly popular. Area recreationalist, business groups and local communities all supported the concept, which received favorable media coverage throughout the development of the trail.

And why wouldn’t it be popular? The Union Pacific was paying the tab. In exchange for spending a few million on a bike trail under the guise of ‘capping’ the pollutants left there by thousands of trains hauling product from the Silver Valley mines, the railroad could avoid much, much higher costs should the issue ever go to court.

In return, local residents received a remarkable bike trail that not only affords inexpensive, safe recreation, it attracts thousands of tourists to give the economy a nice boost. All for free.

So, with the exception of a few property owners, everyone was happy. Until two weeks ago.

That’s when the court issued its decision.

When faced with giving up land to accommodate a bike trail, a property owner in Wyoming made the same argument local property owners made before the Trail of the Coeur d'Alenes was built. He argued that the law is clear; the easement for the railroad expired when the railroad ceased using the property as a railroad. Because of that, the government had no right to build a trail through his property.

The court agreed with the property owner and sent the case back to a lower court to sort out the details. It's anybody's guess what will happen now. Given courts are involved, it could be some time before we know.

A couple things are worth noting. The Trail of the Coeur d'Alenes is a tremendous asset to the region. It is no accident that it ranks among the best bike trails in the entire nation. Hundreds of thousands of people have enjoyed the trail and millions more will continue to do so.

But, having said all that, the 8-1 decision, with only Justice Sonia Sotomayor dissenting, should serve as a lesson.

No matter how popular the cause, how grand the plans, how great the public benefit is perceived to be - property rights mean something. If we are going to error, would it be that we error on the side of the property owner. – *Dan Hammes*