

**Peter D. Welte**

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June 14, 2016

Chairman Jim Schmidt  
Honorable Water Topics Overview Committee  
Members

Sent via Facsimile to Sleep Inn, Minot  
701-837-3101

**Re: Pembina County Water Resource - Lyndon Juhl and Ted Juhl  
Our File No. 048558.15000**

Dear Chairman Schmidt and Honorable Water Topics Overview Committee Members:

I write this letter on behalf of my clients Ted Juhl and Lyndon Juhl. The Juhls are farmers in northeastern North Dakota.

Approximately one year ago, the Juhls were faced with a quick take eminent domain action that was instituted by the Pembina County Water Resource District. The PCWRD sought an easement on the Juhl's property. The Juhl's were willing to grant such an easement, but there was insufficient communication regarding the consideration for the easement. Before thoroughly discussing the matter, the PCWRD instituted a quick take action under North Dakota law.

After a fairly brief amount of time, there was a settlement of this matter. The resolution included a dismissal of the action, in part because the PCWRD did not follow the statutory requirement of first making an offer in writing to the Juhls before instituting the quick take action. By the time the matter was resolved, both my clients and the PCWRD had incurred substantial costs in terms of both time and legal expense. The entire matter was avoidable.

My clients wish to submit this example to you because it illustrates the perils of quick take eminent domain. A quick take action empowers a governmental entity to use its considerable resources to effectuate a result that can be unjust and unfair. It is difficult for governmental entities, particularly water resource districts, to resist the urge to use quick take eminent domain in cases where the more appropriate action would be to assiduously work with the landowners over whom they exercise their authority. Not all landowners have the resources to hire attorneys to defend actions against governmental entities when the governmental entity isn't following the rules required under North Dakota law.

It is my client's position, based upon experience, that any expansion of the quick take authority of Water Resource Districts is a bad legislative idea. Taxpayers and constituents expect their legislators to represent them in drafting laws such as the one being contemplated by this committee. Please consider our comments accordingly.

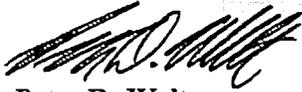
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June 14, 2016  
Page 2

Thank you for your time and your consideration. Although I am unable to be in Minot today, I would be able to address your committee in the future, should you so desire.

Respectfully and Sincerely,



Peter D. Welte

PDW/kld

- cc: Rep. Jim Schmidt    Rep. Bill Amerman    Rep. Dick Anderson
- Rep. Curt Hofstad    Rep. Tom Kading    Rep. Naomi Muscha
- Rep. Jon O. Nelson    Rep. Marvin E Nelson    Rep. Todd Porter
- Rep. Mark Sanford    Rep. Roscoe Streyle    Rep. Denton Zubke
- Sen. Jonathan Casper    Sen. Ray Holmberg    Sen Gary A. Lee
- Sen Larry Luick    Sen. Larry J. Robinson    Sen. Donald Schaible
- Sen. George Sinner    Sen. Ronald Sorvaag    Sen. Jessie Unruh
- John Walstad, Legal Division Director    Claire Ness, Counsel
- Lyndon and Ted Juhl

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