



4-15-1953

## Letter from Representative Burdick to Mrs. A. J. Zok Regarding Eminent Domain, April 15, 1953

Usher L. Burdick  
*United States House of Representatives*

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USHER L. BURDICK  
AT LARGE, NORTH DAKOTA

HOME ADDRESS:  
WILLISTON, N. DAK.

COMMITTEE ON  
THE JUDICIARY

Congress of the United States  
House of Representatives

Washington, D. C.

April 15, 1953

COLEMAN J. BARRY  
ADMINISTRATIVE ASSISTANT  
WILLISTON, N. DAK.

LAURA PAGE KNUDSON  
LEGISLATIVE ASSISTANT  
LEEDS, N. DAK.

ARLEEN J. IVERSON  
SECRETARY  
JAMESTOWN, N. DAK.

CHARLES M. CLARK  
DEPARTMENTAL ASSISTANT

*Mr B said  
Do not send*

Mrs. A. J. Zok  
Fairview, Montana

Dear Mrs. Zok:

I have your letter of March 13, which was forwarded to my office by Senator Langer, with the request that I write you concerning your problem.

Under the right of eminent domain, in cases such as yours, the Army Engineers are permitted to take your land for emergency or necessary use. They then make an offer of payment, based upon a "fair appraisal". In case you do not accept their offer, you have the right to take the matter to court.

After the issuance of the "Declaration of Taking" the Army Engineers may deposit with the court the amount of the offer they made to the owner, and as soon as this is done, title to the land in fee simple absolute passes to the U. S. government. Therefore, you no longer own the land or any interest in it, and this is true, even though the court may later award you a higher price than that offered in the first instance and which has been deposited with the court.

It is upon this basis that the matter of rental comes in. Title having passed to the government through the action of the Army Engineers, in cases where the land might lie idle for a considerable length of time before it is used for the purpose taken (in this case, the flooding occasioned by the building of the Garrison Dam) it is the policy of the Army Engineers, as agents of the government, to offer it back to the former owner for use under a lease agreement. Ordinarily bids would have to be submitted by prospective lessees from the government, but in cases such as yours, it is the custom to give the former owner first chance to rent it without subjecting it to bids.

The law under which this procedure is authorized was passed in 1931 and is entitled "An Act To expedite the construction of public buildings and works outside of the District of Columbia, by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain."

Mrs. Zok

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I realize that this procedure seems very unfair and arbitrary, and I am sorry that I cannot do anything to help you. However, the authority for the procedure is clearly set forth in the law, and so long as it remains in effect the Army Engineers will have the right to take such steps in connection with the acquisition of land in the 'taking area' of the Garrison Dam.

I have gone into this matter at length, because I feel that a great deal of misunderstanding and resentment could have been avoided if the proper explanations had been made by the agents of the government when they proceeded to acquire the land.

If there is anything further I can do for you here, please let me know.

Very truly yours,

Usher L. Burdick, M. C.

cc: Senator Langer