**Revised version, my comments in blue:**

**First peer reviewer:**

*(i) the quality of the paper,*

The paper is generally of good quality, although the author might benefit from reading over the article again and streamlining it.

I make a few general comments that the author can consider:

* Since this is an international / comparative publication, not all readers will be familiar with the specific systems and the terminology. For this reason the article will benefit from an explanation of the terminology used at the beginning of the article. This can even be done in footnotes (for instance, the “no-scheme” principle being the Pointe Gourde principle is useful to know from the beginning). I have attempted to address this throughout the paper, e.g., by adding the requested clarification in footnote 4.
* The author should also make it clear throughout the article which jurisdiction is under discussion. There are times where one need to “backtrack” to make sure if it is UK / Norway (and in some instances US). I found the discussion in section 4 and the discussion on Bocardo to be clear. I agree, and I have attempted to address this throughout the paper.
* While one can deduct from the introduction what the author will look at, a clear question / statement might also help the reader to focus on the argument. Such a clear question / hypothesis will also help the author in streamlining the argument.

I have rephrased the introduction, taking this into account.

*(ii) the novelty of the argument,*

It is an interesting topic, and a different view to the economic takings issue.

*(iii) clarity and coherence of the argument and*

The comments above apply. It is generally clear and cohorent, but there are a few tricks that the author can do to just make it clearer.

*(iv) whether the author's assumptions and methodological approach are acceptable and theoretically responsible.*

Assumptions fine, methodological approach acceptable, theoretically responsible. It is clear that the author has read on the topic fairly extensively.

*Please recommend to us whether the manuscript is****[B]*** *acceptable for publication, subject to minor revision, as per your report; or*

The suggestions above is for the author’s consideration. In my opinion the piece can benefit from some fine tuning. If possible, it can even be shortened. I leave that to the discretion of the author. I believe the paper is shorter now, and hopefully more streamlined as well.

**Second peer reviewer:**

Overall, the paper seems to be well-written and is clearly expressed. The paper's subject matter is interesting, especially when discussing a body of Norwegian case-law which is not well-known. As such, the paper provides a novel contribution to expropriation analyses and will make a valuable and interesting contribution to the proposed collection. The discussion of hydro-electric power and takings of waterfalls in Norway is useful in casting a valuable light on comparative approaches to private economic takings. It also makes a useful contribution to debates about no-scheme rules and their interaction with private economic development takings.

There are a few minor points that are made for the author to consider. These do not detract from the overall favourable impression of the paper but rather are suggested as means of making the argument tighter. The paper is categorised as [B] acceptable for publication, subject to minor revision as follows:

1. The author comments that some writers have 'argued that failures of compensation [are] at the heart of the legitimacy issue, and that worries over the public use restriction in the US Constitution is largely a response to concerns about the “uncompensated increment” of such takings.' Fennell is cited as authority for this approach.

* Whilst the compensation element may well be a significant factor in opposition to private takings, it is not the whole story. Several commentators, van der Walt in particular, have warned against the existence of compensation being viewed as a justification for expropriation in the first place.
* The two elements are  (and should be) very separate: (i) is the expropriation justified? (e.g. by public use/public interest); and THEN (ii) is compensation payable and at what level?).
* Naturally, in the 'real' world people may be more willing to be expropriated where they receive plenty of compensation, but this does not obviate the need for society to ensure that expropriation has been justified in the first place by reference to a public interest or public use.
* It would therefore be good for the author to state more clearly that they are focusing solely on the compensation element and its calculation. Otherwise they may invite comments on an even more contentious debate about whether or not the existence of compensation acts as justification for expropriation in the first place.

I agree completely with the broader points made by the reviewer. Unfortunately, many courts (particularly in Norway, but also in the UK, as argued, e.g., by Kevin Gray) do not offer much in the way of scrutiny with respect to the public interest/use requirement. Instead, it is typically thought that if the government orders expropriation to take place, then it must be in the public interest. In Norway, legal scholars state outright that the property clause (which is phrased similarly to the takings clause in the US) places no public interest restriction on the government (Aall, 2004). This attitude is closely related to the idea that “full” compensation (enshrined in the Norwegian constitution) offers sufficient protection. Interestingly, the same idea also features in the US debate, although it does not dominate as it does in Norway. One aim of my article is to assess this way of thinking, by offering a case study of what it offers and how well it fares (with respect to benefit sharing), in the context of expropriation for hydropower in Norway. Ultimately, I conclude, just like the reviewer, that it is an unsatisfactory perspective. I have tried to make my starting point and objectives more clear in the revised version of this article, e.g., by rewriting the introduction and Section 2.

2. On page 5, the author notes that 'The justification for eminent domain in economic development cases only extends to the necessary pooling of resources, it provides no reason to deprive owners of the commercial potential inherent in their land.' Whilst this may be so, it seems to over-state their case unnecessarily. I agree, so I changed the formulation.

* It would be helpful for the author to consider, albeit briefly, whether there might well be reasons why owners *should*be deprived of the commercial potential inherent in their land? An underlying theme in some of the American Mill Act cases, is that monopoly economic power should be broken down for *social*reasons not just economic reasons.
* So, it would be worth thinking (even if briefly) about whether economic development cases are or should be different from other types of private takings?
* In e.g. *Hawaii Housing v Midkiff* and *James v UK* wealthy monopoly powers/strong economic players were not able to continue benefitting from the commercial potential inherent in their land because of social policy reasons.
* There may be interesting parallels for the arguments that the author puts forward for profit-sharing in economic development cases.

I think this is a very good point and I have now added some comments on it in Section 2, see especially footnote 26.

3. The discussion on the UK 'no-scheme' rule was useful but a bit bare. It would help to note, even if briefly, some of the statutory underpinnings in this area. E.g. the Land Compensation Act 1961 and to note the discussion entered into by the Supreme Court in the *Transport for London v Spirerose*case [2009] 1 WLR 1797 about the interaction between statute and common law Pointe Gourde rules. *Spirerose*has provided a useful gloss on *Waters*so it would be good to see the case referred to, even if in passing.  I agree and I have added a reference and some comments on this in footnote 41.

4. Structurally, the most interesting elements (because of their novelty and comparative interest) were the Norwegian discussions. It would have been good to discuss the parallels with American jurisprudence in this area (i.e. Mill Act cases) briefly earlier in the piece (e.g. in section 2). I agree, and I have added material on this, mostly in Section 2, but also briefly at the beginning of Section 5.

5. The concluding section was very strong and clear. It would be good to echo the concluding comments more explicitly in the paper's relevant individual sections so that the arguments are highlighted as clearly as possible throughout. I have kept this in mind while going through the paper, and I believe it has become more focused as a result.