

Legislative Testimony

Bonnie & Michael Haupt

Private Landowners

Mercer County ND

In Favor of SB2228

Mr. Chairman and members of the committee, we are Michael and Bonnie Haupt private landowners in Mercer County here to testify in favor of SB2228.

Our land is in an area to be included in a CO2 Sequestration project by a for-profit private company and they have asked us to sign their pore space lease. We are not against this new carbon sequestration industry in North Dakota. However, our attorney pointed out several items in the company's lease which led him to recommend that we not sign the lease. We asked the company to negotiate the terms, conditions and consideration listed in the lease, but they would not negotiate. The legislation passed in 2009 created an unlevel playing field with negotiations tipped in favor of the company. We are here today to respectfully ask you to make some changes that will create a level playing field for negotiations.

This same land was crossed by the Dakota Access Pipe Line (DAPL). They were also a for-profit company and were granted the use of eminent domain if we could not come to agreement over the terms, conditions and consideration. We were not against DAPL and their project, we wanted to negotiate with them. So we joined a landowner's group, hired an attorney and negotiated with DAPL our concerns with the terms and conditions of their pipeline easement and the consideration they were offering for the use of our property. DAPL listened to our group's concerns and we believe DAPL was somewhat surprised that our groups concerns turned out to be very reasonable, but necessary. The key was being able to negotiate with DAPL on a more level playing field, with guidance from our attorney. DAPL paid our attorney fees.

Then came the wind farm and requested we signed their easement. No eminent domain hanging over us so we were able to negotiate terms, conditions and

consideration with the guidance of our attorney. We came to an agreement and the wind farm paid for our attorney fees.

Surprisingly to us, a large percentage of our neighbors have signed the for-profit company's pore space lease, without consultation from a competent attorney. It was their choice to sign the lease and we respect that choice. However, our neighbor's signing must not force us to be included in the project. This is not a popular vote, it is our constitutional right to decide if we want to sign a lease or not and our right to decide who may go onto our surface and use it. Our right to negotiate does not conflict with our neighbors right to join, they made their decision. We want to negotiate with the for-profit company on a level playing field, consult with our attorney, and make an informed decision. The legislation created in 2009 tips the negotiating field in the company's favor. They don't need to negotiate with us and the current legislation allows them to take our private property.

We are not against the proposed CO2 sequestration project. We are not against the jobs it will create, the tax income the county and state will receive, or the economic development that may occur. However, a private for-profit company should not be allowed to take our private property without any input or negotiation from us. After all, we own this property! We believe some language in the current legislation is unconstitutional and we respectfully request that you change it so it allows us to negotiate on a level playing field with the for-profit company. We had very successful negotiations with DAPL, and more recently with the wind farm company, both for-profit companies. They also paid our attorney fees.

Any carbon sequestration project proposed for this state by industry, state bureaucrats, our neighbors, the legislature or our Governor, **no matter how meritorious**, is ill conceived if it includes the taking of private property from landowners. Our private property is not for the taking! Please, create a level playing field by passing SB2228. This will encourage the company to negotiate with us and get this industry off to good start! Thank you. Michael and Bonnie Haupt.