

SB2228 Testimony (In Favor Of)

Dear Chairman and Senators,

My name is Chad Gilmer, and I am thankful for the opportunity to write this testimonial. My hope is that it provides you with additional perspective that I think is important to consider with this bill proposal. The main focus for this testimonial is to highlight my experience with Summit Carbon Solutions, and how the current legislation allows for predatory business development from large firms and companies at the expense of landowner's private property and rights. I believe the original law was drafted in good faith, but as times change and new technologies emerge, such as carbon capture, these need to be revisited to ensure there is a balance between growing business and the interests of North Dakota landowners.

My wife, Lauren Somers Gilmer, is part of a family that has proudly owned land in North Dakota for over 112 years. Her aunt & uncle, and grandma live on the land right next to the section that she owns. I am proud and honored to be a part of this family, and admire their hard work and dedication for how well they take care of the land. My wife and I do not currently live on the land in North Dakota, but we still invest our own time, money, and sweat into the property. Recently, we flew back from Texas and spent a significant amount of time planting around 300 – 400 trees to start building a new windbreak for the property. We understand that as North Dakota landowners, it is important to do our part in preserving the land for future generations. The hard work that we put into maintaining the land is at risk with current legislation, and this bill aims to make sure that we can continue to exercise our constitutional rights as private landowners.

I currently work in the oil & gas industry, where contracts for mineral rights and saltwater disposal wells with landowners are common place, such as in the Bakken formation in North Dakota. More often than not these agreements are good for business, and also good for the landowners. Of course, not everybody gets 100% of what they want, but generally speaking there is a reasonable amount of good faith between both parties to be respectful of the interests at hand. In all cases, companies who use the land for oil & gas extraction or water disposal are required to post bonds for reclamation and return the land to the original state after they are finished using it. They need to abide by noise and light pollution laws and must maintain roads they use after driving heavy equipment. They are bound by law to protect and maintain the land for the landowner's future use, and landowners are compensated justly for any decrease in property value. Since the companies are working on the landowner's private property, the landowners can dictate what happens through proper legal proceedings and common industry practice. This scenario represents a common business practice today with industry standards that help promote economic growth and protect landowners private property.

This brings me to the scenario relating to carbon capture storage and landowner rights in North Dakota, and some of my personal experience over the last 2 years. When we were originally approached by Summit with a contract proposal, I was shocked to see what they had put down, or more specifically what was not on paper. In my opinion, this document was just downright disrespectful to landowners. I have read hundreds of legal documents and contracts, and I have never seen anything like this. For anyone who has read any reasonable business contract, this was a document you put in the paper shredder, and never engage with that party again. Backed by millions of wall street dollars, this is a classic example of predatory business practice where wall street money tries to take advantage of something they do not own, OUR LAND. In short, Summit offered a small lump sum payment, and a minuscule royalty fee in exchange for free use of the land, both above ground and below ground with no

SB2228 Testimony (In Favor Of)

restrictions to access at all, FOR UP TO 40 YEARS!!! I was deeply saddened to hear that other nearby landowners, due to their lack of legal knowledge and lack of familiarity with carbon capture, had already signed up. They unfortunately signed away their land, without knowing the true value, and more importantly without recognizing their constitutional right as private property owners. To no surprise, Summit has been specifically targeting individuals who may not be well educated in legal contracts, in an attempt to reach the low 60% amalgamation threshold where they can then force the rest of the landowners to do what they want. In the bullet points below I summarize some of the legal agreements that people have agreed to without being properly educated. I know with certainty that if given a second chance to fully understand what Summit was offering, these landowners would never have placed their highly valuable land in the jaws of corporate sharks.

- Summit would be allowed to "abandon in place" all infrastructure of any sort both above ground and below ground at any point in time throughout the contract on the property.
- Summit would be allowed to start building infrastructure on your land before terms of compensation have been fully agreed.
- They would be allowed to conduct seismic tests with disregard to water sources, crops and livestock.
- There was no mention of reclamation anywhere for damaged caused to the land, property buildings, or aquifers in the contract.
- Summit retained the right to say no to any other use of the surface land, including farming and use of livestock that the land had already been used for.
- Summit could effectively take control of our own surface land for other business venture if they so choose.

So why would a company like Summit Carbon Solutions blatantly try and take advantage of landowners? Well because they know how valuable our land is, and with current legislation in place they have an opportunity to capitalize and take advantage amalgamation, and of unconstitutional legislation such as NDCC 38-22-10. Amalgamation is at play because if they can trick enough people into taking a quick payday, they then can force the rest of the private property landowners into doing whatever they want without their consent. They also know that they have high ranking government officials on their side who are promoting this as a great economic opportunity, at the expenses of private landowners, despite this being unconstitutional. So, in reality the problem is two-fold. Big businesses, and government officials working together and willing to turn a blind eye to unconstitutional practices and legislation with respect to private property and constitutionally protected reasonable landowner rights.

This bill proposal brings to you the American spirit and way of life in one of it's purest forms. Fighting for the freedoms of landowners and the people who take care of what is rightfully theirs, in the face of the few who think they have the right to take our land.

Trying to negotiate with Summit has been a colossal waste of time, as they are just trying to take advantage of the unconstitutional laws that are currently place. We received a lot of lip service, and a lot of empty promises that they would come back to the negotiating table. Of course, they understand why we are upset and want to change the lease, if Summit was in our shoes they would never in a million years sign the lease they presented to us. They only have returned to the negotiating table because of the introduction of this morally and ethically sound legislative proposal that protects landowners, and because their business proposal depends on the land of North Dakota families. Unfortunately, the

SB2228 Testimony (In Favor Of)

reality is that this may not be the only company in North Dakota applying this predatory business practice. North Dakota is positioned very uniquely for carbon capture, and especially the land in Mercer and Oliver counties. The land sits on a geological formation that has excellent conditions for CO₂ storage. These types of opportunities and decisions about the land use should be afforded to the people who own it, not big businesses who try and muscle their way into using our property.

I also want to be clear that we are not against business development and new technology, as we recognize the many benefits that it may bring down the road in terms of prosperity and development. Our family ancestors would not have settled on this land without its natural resources, and are a big reason why so many families still live here today. Although untraditional, pore space is also a natural resource (maybe a natural formation) with value for our families and future generations, and we are fighting to protect what is rightfully below our land. As it has been for over a hundred years set by the US constitution, private property owners have rights above and below ground, and we should retain the right in all scenarios to decide who can use the land and for what purpose.

My concern with the current legislation is that it leads to precarious situations such as today for thousands of North Dakota residents. Where large firms such as Summit Carbon Solutions are able to identify highly unconstitutional and unethical ways of carrying out business at the expense of the community and families that have lived there for over 100 years. A large company can easily target landowners who may not be familiar with legal contracts, carbon capture technology, pore space, and may have had a tough prior year in livestock or farming due to unforeseen circumstances. These large companies purposefully seek out these people with a promise of a quick pay day, tie up their land for decades to come, and don't tell you the real value. The bill before you today aims to prioritize the people who live here and take care of the land, and not the newly formed company trying to make a quick buck off new tax credits and new technology, and who will just as quickly abandon these infrastructure projects as things start to go south. The landowners want to be a part of the solution for new technologies such as carbon capture and storage, and we are only asking for a level playing field. Most people are not opposed to new business, as long we retain our constitutional rights to private property.

Working in oil and gas, I know carbon capture is coming, and it is only a matter of time before implementation is widespread. North Dakota has the opportunity to develop this in the right way for economic purposes, while also providing new opportunities to many hardworking families that have owned land for over a century. As elected officials of the people, it is your civic duty to represent and uphold the concerns brought forth to you in the testimonials. It is also your responsibility to protect the constitutional rights of private property for current North Dakota landowners. Most of us are not bankrolled by wall street like Summit Carbon Solutions, and getting this bill right the first time can avoid long and lengthy court battles that would put extra pressure and stress on countless families over the land they call home.

Thank you for your time in reading this testimonial, and I hope you consider enacting legislation in a way that enables economic development, without completely disregarding landowner's rights to their own private property. These families have taken great pride in preserving the North Dakota land for past and future generations.

Sincerely,

SB2228 Testimony (In Favor Of)

Chad Gilmer, husband of North Dakota land owner Lauren Somers Gilmer.