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Senate Bill 2212

Testimony of Brady Pelton

Senate Energy and Natural Resources Committee

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Chairman Patten and members of the Committee, my name is Brady Pelton, vice president of the North Dakota Petroleum Council (“NDPC”). The North Dakota Petroleum Council represents more than 600 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I appear before you today in opposition to Senate Bill 2212.

This bill attempts to remove carbon dioxide pipelines from the types of pipeline granted the right and power of eminent domain to acquire rights of way and easements when the use of a property is deemed necessary for public use. Senate Bill 2212 would substantially alter existing law on the use of eminent domain by a specific type of common carrier pipeline and would severely limit and restrict any carbon dioxide pipeline having been designated as a common carrier from using eminent domain to complete a project.

The use of eminent domain is rare and is typically considered as a last available option for projects. A pipeline project first needs to complete the extensive siting process through the North Dakota Public Service Commission and obtain approval for its specific route and corridor. If Senate Bill 2212 is approved, carbon dioxide pipelines would be fully restricted from using the right of eminent domain in acquiring easements, greatly decreasing the likelihood of any future carbon dioxide pipeline projects being completed.

The use of eminent domain by a pipeline, including carbon dioxide pipelines, should not be restricted in such a manner - particularly when a pipeline project has been deemed to be for the common use and in the public interest by being designated as a common carrier. A pipeline designated as a common carrier must, without discrimination, accept, carry, or purchase, the product (oil, coal, gas, or carbon dioxide) of the state or

of any person not the owner of any pipeline, operating a lease or purchasing oil, coal, gas, or carbon dioxide at prices and under regulations to be prescribed by the Public Service Commission (§ 49-19-11 NDCC).

The exclusion of carbon dioxide pipelines from the types of energy-related pipelines able to utilize eminent domain in acquiring access to land would have direct negative impacts on North Dakota's oil and gas industry. The technology in utilizing carbon dioxide for enhanced oil recovery operations is advancing rapidly, paving the way for the continued oil and gas production essential to maintaining and growing our state's economic prosperity. To allow that technology to develop, policy must be in place that creates and supports a strong, business friendly, and capital-attracting environment necessary in allowing the economics of enhanced oil recovery techniques to move forward.

The bill before you is a step in the opposite direction and will almost certainly act as a barrier to getting the carbon dioxide needed for enhanced oil recovery operations both into the state and to the oil and gas producing areas of western North Dakota. Without the reliable and plentiful source of carbon dioxide that an interstate carbon dioxide pipeline can provide from carbon dioxide producers in other states, enhanced oil recovery with carbon dioxide will not happen in our state.

NDPC strongly opposes this bill and the severely negative impact it will likely have on moving North Dakota oil and gas production forward, and we therefore urge a **Do Not Pass recommendation** for Senate Bill 2313.

Thank you, and I would be happy to answer any questions.