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## **Senate Bill 2313**

### **Testimony of Brady Pelton**

#### **Senate Energy and Natural Resources Committee**

**January 26, 2023**

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 2313.

The bill before you creates a significant premium for property sought to be condemned for public use through the eminent domain process by increasing the damages assessment on such property by thirty-three percent. The consequences of this proposal, though likely unintentional, could not be more detrimental to the infrastructure development necessary for North Dakota’s success story to continue.

In the oil and gas industry, eminent domain is a process used rarely and as a last resort in instances where, typically, a small amount of property is sought and cannot be avoided. Eminent domain proceedings are costly and time consuming, often causing significant delays to the start dates of project construction. The use of and access to private property is, quite frankly, not something North Dakota’s oil and gas companies take lightly. Our developers much rather prefer property use issues to be resolved through earnest negotiations between landmen and landowners.

Instead of incentivizing developers to avoid acquiring access to property through the eminent domain process, this bill is likely to result in a dramatic increase in the number of eminent domain proceedings by incentivizing property owners to forego negotiations with developers altogether. Property owners who stand to gain 33 percent more than actual damages simply by forcing a developer to acquire use through eminent domain are extremely unlikely to negotiate with that developer in good faith.

This unlikelihood, coupled with automatically increasing the amount of an eminent domain assessment by 33 percent, will have a tremendous impact on the already high costs of infrastructure development. The cost increases that will result with passage of this bill are likely to make pipelines and other critical infrastructure development uneconomic and cost prohibitive, significantly reducing North Dakota's ability to compete with other regions of the country in growing its economy.

Senate Bill 2313 severely restricts the ability of all infrastructure developers to use property deemed necessary for public use, and its broad-sweeping application to all instances of eminent domain poses an incredible risk to future development in not only the oil- and gas-producing region of North Dakota but infrastructure development across the state.

NDPC strongly opposes this bill and the multitude of potential negative consequences likely with its passage, and we therefore urge a Do Not Pass recommendation for Senate Bill 2313.

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