

**Summit Carbon Solutions Testimony on Senate Bill 2314  
January 27, 2023, 9:30 (11:00) A.M.  
Senate Energy and Natural Resource Committee  
Senator Dale Patten, Chairman**

**Jeff Skaare – Director of Land Summit Carbon Solutions**

**Opposition to SB 2314**

Chairman Patten, and fellow Senate Committee Members.

My name is **Jeffrey Skaare**. I am the **Sequestration Director of Land Legal and Regulatory Affairs** for **Summit Carbon Solutions**. I am an attorney by education, and a certified professional landman by trade. Born, raised and educated in North Dakota, I have dedicated the majority of my professional career to the development of ND's vast mineral resources. I have witnessed first-hand the need for, and the buildout of, the necessary infrastructure to develop North Dakota's vast natural resources. I have personally overseen the acquisition, build out and operation of over 300 miles of pipeline within North Dakota. In my past employment, I was involved in the acquisition, reclamation, and operation of those same pipelines. I became involved in the Summit Carbon Solutions project because I believe that the two most important industries to North Dakota, namely Agriculture & Energy, will need to find a carbon management solution to continue to thrive. We have reviewed proposed Senate Bill No. 2314 and we oppose for the following reasons:

- 1.) The enactment of this bill singles out CO<sub>2</sub> – with no justification for the separation.
- 2.) The enactment of this bill creates another layer of bureaucracy.
- 3.) The enactment of this bill creates uncertainty in whether 100% is required (thus removing the right of Eminent Domain altogether); and
- 4.) The enactment of this bill is an additional burden upon the PSC and is a waste of State resources.

I would like to address each of these points in turn.

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First, this bill singles out CO<sub>2</sub> without justification. CO<sub>2</sub> is a resource for North Dakota. Lyn Helms addressed this with both the Senate and the House Energy and Natural Resources Committees on Friday January 13, 2023, highlighting the need for additional future CO<sub>2</sub> pipelines. In his presentation<sup>1</sup> at 8:44:00, Lyn Helms explains that if we were to capture all the stationary CO<sub>2</sub> sources in ND, that would amount to ~3% of the CO<sub>2</sub> needed for enhanced oil recovery. His presentation at 8:51:01, also suggests that proper allocation of this resource would unlock ~ 10 billion barrels of oil in twenty years in the Williston Basin. It is clear from listening to his presentation that CO<sub>2</sub> pipelines are vital to our State's continued economic development and the future of North Dakota's Agriculture and Energy Sectors. The proposed Senate Bill 2314 singles out CO<sub>2</sub> pipelines in a manner that is detrimental to North Dakota's future.

Secondly, proposed Senate Bill 2314 creates a second layer of bureaucracy for every entity that endeavors to invest in CO<sub>2</sub> infrastructure. Every entity would need to learn from each individual County Commissions their percentage determination. Nothing in this legislation suggests that the County Commission cannot change this percentage at any time. The proposed legislation's benchmark measure, (i.e., the number of landowners) is uncertain. For example, let's assume a CO<sub>2</sub> pipeline is proposed to cross three tracts of land. A husband-and-wife own tract 1 tract together as joint tenants, the husband owns tract 2 individually, and the wife owns tract 3 individually. Would this count as 1, 2 or

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<sup>1</sup> [https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20230113/-1/28323#info\\_](https://video.ndlegis.gov/en/PowerBrowser/PowerBrowserV2/20230113/-1/28323#info_)

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3 landowners? What if that same family decides to divide that land out to additional limited liability companies? What if the father owns certain parcels with one son and other parcels with his daughter? Would that further change the number of landowners?

Allowing the County Commission to set the goal posts is a clear signal to the market that North Dakota is not open for business. This creates uncertainty in project development and another layer of government. In a time when we are seeking less government intrusion, we are creating additional, unnecessary layers. Which brings me to my third point.

Third, the enactment of this bill gives County Commissions the right to remove Eminent Domain altogether by requiring 100% acquisition. This is another “end-run” on Senate Bill 2212 and an attempt to remove Common Carrier status altogether. This gives County Commissions essentially the right to shut down economic development based on the smallest of parcels. This would discourage development and investment in North Dakota for future infrastructure.

Fourth, as opposed to proposed Senate Bill 2209, Senate Bill 2314 creates a new section of Century Code requiring Public Service Commission to hold a public hearing in every County that is “*potentially* impacted by the Common Carrier’s proposed project”. Every county in the State of North Dakota is potentially impacted by every decision of the North Dakota Public Service Commission. To require a Statewide, County by County review of every project is a tremendous burden on the Public Service Commission. In enacting Chapter 49-22 titled, **Energy Conversion and Transmission Facility Siting Act**, the Legislature has already declared in 49-22-02 entitled, Statement of Policy, “*The legislative*

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*assembly hereby declares it to be the policy of this state to site energy conversion facilities and to route transmission facilities in an orderly manner compatible with environmental preservation and the efficient use of resources.”* To require the North Dakota Public Service Commission to hold hearings in all potentially impacted County Seats is an undue burden and a waste of State resources.

It is for these reasons that we oppose the enactment of Senate bill number 2314 and request a recommendation of **DO NOT PASS**.

Thank you.