

Testimony of Troy Coons on behalf of
Northwest Landowners Association
in favor of
SENATE BILL NO. 2317
Senate Energy and Natural Resources Committee
January 27, 2023

Chairman Patten and members of the committee, thank you for taking my testimony into consideration today.

My name is Troy Coons and I am the Chairman of the Northwest Landowners Association. Northwest Landowners Association represents over 525 farmers, ranchers, and property owners in North Dakota. Northwest Landowners Association is a nonprofit organization, and I am not a paid lobbyist.

We support SB 2317 because it is a constitutional path for these projects to occur. I have been asked by many people: "What is the right percentage?" When you amalgamate any amount of property owners, it is a taking, and for them, it is a 100% taking. So we cannot agree that there is a certain percentage that allows something that is unconstitutional.

But we were also asked how these projects could happen if that is true, and so we tried to find a way, and that is what legislation does. Amalgamation proceedings before the North Dakota Industrial Commission are actually permit proceedings before Lynn Helms and the Oil and Gas Division. Our concern with this is that Mr. Helms testified in 2019 in favor of SB 2344, and said it was necessary to remove the ability of landowners to receive compensation based on an example of the economics for gas storage. *See* Legislative History of SB 2344, p. 4, (2019) (<https://www.legis.nd.gov/files/resource/66-2019/library/sb2344.pdf>). He explained the point of his illustration, stating "I bring that up because you can see this project stores and reproduces the gas at \$2.96, which means it can't endure any additional burden from having to compensate for pore space being temporarily used for the storage of natural gas." *Id.*

This law as it stands requires landowners to go before this same regulator to determine the amount of "equitable" compensation they will receive. That is not fair. That is not "just" compensation. Article One, Section Sixteen of the North Dakota Constitution says that for a taking, the landowner "may have a jury trial, unless a jury be waived, to determine the damages, which damages the owner may choose to accept in annual payments as may be provided for by law."