

Testimony of Adam Dunlop, Executive Vice President of Midwest Ag Energy

North Dakota Ethanol Producers Association

Opposition of SB 2122, 2209, 2228, 2317, and 2314

January 27, 2023

Chairman Patten and members of the Senate Energy and Natural Resources committee,

I am Adam Dunlop, Executive Vice President of Midwest Ag Energy which owns and operates ethanol plants located in Underwood and Spiritwood. Midwest Ag Energy is a member of the North Dakota Ethanol Producers Association (NDEPA), which represents North Dakota's six ethanol plants, industry stakeholders and associated businesses. NDEPA is here today to oppose Senate Bills 2122, 2209, 2228, 2317, and 2314. These bills would be detrimental—and in some cases fatal—to the ethanol industry with respect to any future advancements in the carbon (CO₂) markets. North Dakota's legislature has diligently invested immense resources in research and development to advance the CO₂ markets and opportunities in ND, and it has spent 15 years creating a legal, tax, and regulatory regime to encourage investment in the CO₂ markets. Each of these bills could unilaterally undo the very thoughtful and at times groundbreaking work you have invested in safe and permanent CO₂ storage.

North Dakota's ethanol industry contributes nearly \$1.7 billion annually to the state's economy and provides thousands of direct and indirect jobs. Thanks to North Dakota's innovative private sector and supportive state government, the state's ethanol production capacity is 550 million gallons per year, which is more than five times the production a decade ago. The plants produce 2.4 million tons of CO₂ annually. Red Trail Energy in Richardton has been capturing and storing the CO₂ it produces for about a year. They were the first Class VI injection well approved by a state regulator with EPA primacy. Midwest Ag Energy's Blue Flint plant has been working on its CO₂ project for the past several years and will have an operational CO₂ project this summer. Tharaldson Ethanol has signed onto the Summit Carbon Solutions pipeline which will be able to capture CO₂ from various Midwest ethanol plants and store it in central North Dakota.

There is a tremendous advantage to capturing and storing North Dakota's CO₂ emitted from the ethanol plants. There are a couple of powerful economic factors at play: (1) the ability to capture more revenue with low-carbon ethanol and (2) 45Q tax credits. The ethanol produced from these plants can be sold to developed and emerging low carbon fuels markets that are willing to pay a premium for low carbon fuel. Low carbon ethanol is often sold at a premium—around 20-30 cents more a gallon. Assuming a \$.20 lift in every gallon ethanol, at 550 million gallons of production in the state, assuming all CO₂ from ND's ethanol plants be permanently stored, that would amount to an additional \$110M (550M X \$.20) in increased annual revenue. That revenue supports North Dakota's agriculture economy. Those who permanently store carbon can also utilize the 45Q tax credit which is currently valued at \$85/ton. ND Ethanol plants produce 2.4 million tons CO₂ annually, the 45Q tax credit on this volume could generate \$204M per year in federal tax credits taken directly to the plant's bottom line (2.4M x \$85). The 45Q tax credit is available for 12 years. Also, lower carbon-intensity scores at a plant enables it to pay a higher price for corn in their area, which translates directly into a better economy for our farmers in ND. These are game-changing opportunities for ND agriculture.

With regard to the eminent domain bills, Senate Bill 2212 completely repeals common carrier status for CO₂ projects, Senate Bill 2209 creates an 85% threshold for eminent domain and gives county commissioners authority to set higher percentages, and Senate Bill 2314 gives the Public Service Commission (PSC) authority to determine common carrier status and eminent domain limitations. Our industry work extremely hard to be sure that landowners are treated fairly and appropriately- they are our suppliers for corn and customers for distillers grains. We all share benefits if we're able to successfully build and operate these projects. Eminent domain, simply put, is not a desired tool, but vocal small minorities of protestors should not be given veto power over any linear infrastructure that allows our state to compete and prosper.

Similarly, with regard to the amalgamation bills, Senate Bill 2228 repeals amalgamation for CO₂ storage, and Senate Bill 2317 creates an 85% threshold for amalgamation. Similar to eminent domain, NDEPA understands that amalgamation is never the first mode of action, but it is a tool that must be utilized at times avoid property rights of the minority outweighing the property rights of the majority on project development. Again, the industry aims for 100% consent from landowners on these projects but there are instances that amalgamation is the voice of the majority. Significantly raising this threshold would absolutely hinder all CO₂ projects across North Dakota.

Addressing a carbon-constrained future is a critical public purpose. Our two major industries, agriculture and energy, cannot survive and thrive without them. Additional, hindering projects for the ethanol industry would put the 550 million gallons of ethanol produced by home grown corn in North Dakota's at a disadvantage on the national level. Thank you for your time today and on behalf of NDEPA I respectfully urge a 'Do Not Pass' on SB 2212, 2209, 2228, 2317, and 2314.