

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

Darwin Krenz and Jean Krenz,)	
)	EXHIBIT B
Plaintiffs and Appellants,)	
)	
v.)	Supreme Court No. 20110147
)	
XTO Energy, Inc.,)	
)	
Defendant and Appelle.)	

Amicus Brief Supporting Plaintiffs' Appeal from Order denying Preliminary Injunction
dated April 28, 2011
Civ. No. 53-10-C-1139
County of Williams, Northwest Judicial District
Honorable David W. Nelson, Presiding

**BRIEF OF AMICUS CURIAE NORTHWEST LANDOWNERS ASSOCIATION IN
SUPPORT OF APPELLANTS DARWIN AND JEAN KRENZ**

Northwest Landowners Association ("NW Landowners") submits this brief as Amicus Curiae to the Supreme Court of North Dakota in order to highlight the fact that the present appeal, and the denial of an injunction for Darwin Krenz and Jean Krenz, is an issue affecting the fundamental rights of the Krenzs', and with the potential to impact many of NW Landowners' members throughout northwest North Dakota.

NW Landowners was founded with a mission of informing and supporting landowners in North Dakota on landowner rights and the impacts of energy development. *See* Affidavit of Myron Hanson. The NW Landowners is submitting this brief because the membership of the organization may be significantly impacted by the Court's decision in this matter. NW Landowners, on behalf of its membership, submits that the issue being decided in this case affects the fundamental rights of the Krenzs', and is of significant interest to all of its member landowners throughout Northwest North Dakota.

“[O]ne of the most essential sticks in the bundle of rights that are commonly characterized as property [is] the right to exclude others.” *Kaiser Aetna v. U. S.*, 444 U.S. 164, 176 (1979). If there is a lawsuit in which a landowner and an oil company are disputing whether the oil company has any legal authority to construct a pipeline on the landowners’ property, then the oil company should not be allowed to go ahead and construct that pipeline before a court actually decides whether the oil company has any right to construct it. Unless it is clear that the oil company will probably prevail, it is a gross violation of the landowners’ rights to dig up his land and put in an oil or gas pipeline against his objections.

If landowners are not able to receive injunctive relief, it will encourage companies to expedite construction of pipelines any time a landowner disagrees that they have the right to construct the pipeline. If an injunction is improperly denied at the district court level, it is absolutely crucial that a landowner be able to have that decision reviewed; otherwise the oil company will just move ahead with construction and even if the landowner wins the lawsuit, the landowner will have already lost the most important right of owning his land; the right to exclude others. This is especially egregious when that right to exclude is being exercised to prevent an energy developer from ripping up the landowner’s land. On behalf of its membership, the NW Landowners submits this brief because it adamantly disagrees with Appellee XTO Energy, Inc. that the issue before the Court is not of significant public interest; it is of very significant interest to the members of the NW Landowners.

Dated this 27th day of June, 2011.

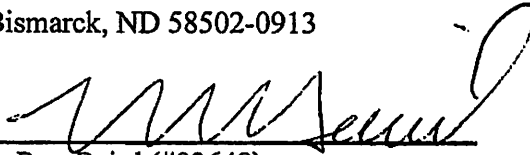
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A handwritten signature in black ink, appearing to read 'LaRoy Baird', written over a horizontal line.

LaRoy Baird (#03648)