

20130110
20130111

No. 20130110 and 20130111

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

MAY 20 2013

**State of North Dakota
In the Supreme Court**

STATE OF NORTH DAKOTA

Reep, et al. v. State, et al. SC#20130110 and Brigham Oil & Gas, L.P. v. N.D.
Board of University & School Lands, et al. SC#20130111:

Stanford A. Reep and Amy Reep,
the Stockman Family Trust,
Heidi McGillivray, Julie Streich,
Mary Beth Ferguson,
Florence Irwin ex rel. Loren Irwin,
her guardian and conservator,
and Loren Irwin, Individually,
Thomas Selby, and
Sogard Davidson Mineral LLLP,
and on Behalf of All Others
Similarly Situated,

Plaintiffs and Appellants

v.

State of North Dakota,
North Dakota Board of University
and School Lands; and North
Dakota Trust Lands Commissioner
Lance D. Gaebe, in his official and
personal capacities,

Defendants and Appellees

Brigham Oil & Gas, L.P.,

Plaintiff and Appellee

v.

North Dakota Board of University
& School Lands; City of Williston;
Williams County, North Dakota;

Corrected Title Page
FILED BY CLERK
SUPREME COURT JUN 12 2013

Geraldine Loder; Virgil A. Bloechl;
Theresa Sitzmann; Michael M. Gran;
Robert James McDonald;
Richard R. McDonald;
Mary Ellen Smith; Carol J. McDonald;
Thomas T. MacDonald;
Rose Marie Dokken;
Elaine McDonald;
John C. McDonald, Jr.; Josephine
Swenson; Jacque N. Masog;
Kay L. Dodge; William R. Mueller;
Elvira C. Fulton; Doreen Fern
McDonald; Georgia Carol Hausauer;
Margaret Cecelia Gott; Marlyne
Myrtle Loomis; Leslie Louise Neary;
Virginia A. Venti; Eileen Eugenia Ehrler;
BNSF Railway Company; Joseph Patrick
Wodnik and Loraine Ann Wodnik, as
joint tenants; Sherrill Myers;
Viola DeTienne; Theresa Cogswell;
Beulah Clawson; Norman Bratcher;
Nancy Ann Bower-Pryor; Brian Jay
Bower and Thomas Adrian Bower, as
joint tenants; Stephen A. Messenger;
Sandra Lee Messenger; Jacqueline Mech;
Orville M. Erickson; Kerry P. Hoffman;
Ardean O. Aafedt; Robert K. Torgerson;
Jerome Bakke; Curtis Bakke; Sherrie
Dee Bakke, Trustee of the Lowell G.
Bakke Mineral Trust; Cynthia Jo Weldon;
Jane Sanders Galt; Leah Pearce Bond;
Charles E. Pearce and Gabriele Pearce,
as joint tenants; B.C. Harris and Ann
Harris, Co-Trustees of the Harris
Revocable Trust executed July 25, 1996;
James R. Goins; Wayne Smith;
Michael Brooks; Bill Como; Christi
Breithaupt; Chris Smith; Kelly Smith;
Mark Lemley; Beverly Sundet;
Ricky Vance; Linda Kirkland;

First National Bank and Trust Co. of Williston, Trustee of Hilda Noe Grandchildren Trust; Lois C. Zeigler, Trustee under the Last Will and Testament of Frederick H. Zeigler, Deceased; Shirley L. Schwaub, Trustee under Trust Agreement dated March 5, 1999; Gary S. Schwab; American State Bank & Trust Company of Williston, Trustee of Frank W. Moran and Mary Joan Moran Family Minerals Trust; American State Bank and Trust Company of Williston, Trustee of the Harris and Louise Anderson Family Minerals Trust U/A dated February 10, 2006; United States of America; LeRoy Clapper; Energy One, LLC; Powers Energy Corporation; GeoFocus Corporation; Golden Eye Resources, LLC; Golden Eye Royalties, LLC; Upstream Innovations, Inc.; The Dublin Company; Petroleum Land Services; Huston Energy Corporation; Harvest Oil Company, LLC; and all unknown persons claiming an interest in, or lien or encumbrance upon, the proceeds from the production of the mineral estate described in the complaint herein,

Defendants

Kerry Hoffman, City of Williston, Williams County, Harvest Oil Company LLC, Beverly Sundet, Ricky Vance, Linda Kirkland, First National Bank & Trust Co. of Williston, Trustee of the Hilda

Noe Grandchildren Trust,
American State Bank and Trust
Company, Trustee of the
Frank W. Moran and Mary Joan
Moran Family Minerals Trust,
American State Bank and Trust
Company of the Harris and Louise
Anderson Family Minerals Trust
U/A dated February 10, 2006,
Upstream Innovations, Inc.,
Shirley L. Schwab Trust under
Trust Agreement dated
March 5, 1999, Lois Zeigler,
Trustee of the Last Will and
Testament of Frederick H. Zeigler,
Deceased, and Gary Schwab,

Appellants

APPEAL FROM PARTIAL FINAL JUDGMENT IN THE DISTRICT COURT
NORTHWEST JUDICIAL DISTRICT
Williams County Case No. 53-2011-CV-00495
Honorable David W. Nelson

Brief of the Bakke Family, Pro Se
Jerome Bakke,
Curtis Bakke,
Sherrie Dee Bakke, Trustee of the Lowell Bakke Trust

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STATE OF NORTH DAKOTA

DISTRICT COURT

COUNTY OF WILLIAMS

NORTHWEST JUDICIAL DISTRICT

CASE TYPE: CIVIL

Stanford A. Reep and Amy Reep, et al.,)

Plaintiffs,)

v.)

Case No. 53-2012-CV-00213

State of North Dakota, et al.,)

Defendants.)

Supreme Court No. 2013-0110

and)

Brigham Oil & Gas, L.P.,)

Plaintiff,)

v.)

Case No. 53-2011-CV-00495

North Dakota Board of University)
& School Lands, et al.,)

Defendants.)

Supreme Court No. 2013-0111

Joint Notice of Appeal

STATEMENT OF THE CASE

This is a **joint notice of appeal** to the North Dakota Supreme Court from the Partial Final Judgment entered on April 2, 2013, regarding a dispute over shore zone mineral acres along the Missouri River between Brigham Oil & Gas, L.P. and the North Dakota Board of University & School Lands, et al.

The Bakke Family of Jerome Bakke, Curtis Bakke, and Sherrie Dee Bakke, Trustee of the Lowell Bakke Trust, are three of the 83 named defendants involved in this case.

David W. Nelson, Judge of the District Court, ruled that the State of North Dakota owns title to mineral interests in the land between the ordinary high water mark and the low water mark in the sections that are subject in this action. He stated that this judgment is **FINAL** and is immediately appealable.

STATEMENT OF THE ISSUES

The Bakke Family is filing **Pro Se** and we would like to make a statement regarding **Case No. 53-2011-CV-00495 (Supreme Court No. 20130111)** in which we are involved as defendants.

The Bakke Family of Jerome Bakke, Curtis Bakke, and Sherrie Dee Bakke, Trustee of the Lowell Bakke Trust, inherited 12.336 mineral acres each from their father, George Bakke, from the following description:

T. 154 North - Range 101 West
Section 26: Lot 4 (36.1) and including all accretion and riparian interest in Sec. 25 and 26
Williams County, North Dakota

The **Mineral Deed** for these mineral acres has been recorded in the Williams County Court House for many years. (Appendix .. Page 8)

The mineral acres of the above property were leased to Brigham Oil by the Bakke Family on July 29, 2009. The documents regarding the Bakke Family ownership and **Lease** were filed with the Clerk of District Court in Williams County with our original response on July 6, 2011. (Appendix .. Page 9)

The Bakke Family's argument for review is based on the BACKGROUND information contained in **Document 99, labeled Case 4:11-cv-00058-DLH-CSM** which was filed 06/05/12, using pages 1-3 out of 12. We plan to use a common sense argument, as it would be ridiculous for us to try to argue the legality of any issue. (Appendix .. Page 10-12)

On pages 2-3 of the brief (Paragraph #2-3) it states that "at statehood, North Dakota acquired title to the beds of the navigable rivers up to the ordinary highwater mark pursuant to the equal-footing doctrine. Sprynczynatyk v. Mills, 523 N.W.2nd 537, 539 (N.D. 1994). In its sovereign capacity, North Dakota has authority to allocate property interests in navigable riverbeds to riparian landowners. Id. at 539-40."

"In North Dakota, riparian landowners have absolute title to the ordinary highwater mark, and the State owns absolute title to navigable riverbeds up to the ordinary low water mark. However, the state's interests and the riparian landowner's interests in the shore zone are coexistent and overlap.' Mills, 523 N.W.2nd at 544."

The Bakke Family has no argument with the right of the State of North Dakota to own and control the navigable riverbeds. We agree that the State of North Dakota owns the riverbeds to the low water mark. However, any boat navigating a river stays to the

center flow of the river. No boat will navigate along the highwater mark, which rises during times of floods and goes down when the flood is over.

North Dakota became a state in 1889, which was 122 years before the State of North Dakota filed their claim. The Bakke Family feels that the State of North Dakota waited too long to claim the land to the highwater mark. Apparently, the State of North Dakota waited until these shore zone mineral acres had a higher value. Brigham Oil & Gas drilled an oil well (Williston 25-36 #1-H) on this site on December 14, 2009. This oil well and others along the river would bring great economic possibilities for all of the defendants involved. There are 83 defendants just in this case.

The Bakke Family could better understand the State of North Dakota's claim to these shore zone minerals if the State had financial issues. However, the taxes from all of the wells in the Bakken Oil Patch has made the state rich beyond measure. The State would also benefit from the defendants' ownership of these shore zone minerals, as each royalty check includes a Production Tax and each defendant must pay State and Federal Taxes on all of their royalty payments. Therefore, the State of North Dakota would still benefit financially, although to a lesser degree.

While the Bakke Family agrees with the basic premise of the rights that the State of North Dakota received in 1889, we feel there is the possibility of differing opinions and interpretations regarding the shore zone minerals. The above quoted document states that "... the state's interests and the riparian landowner's interests in the shore zone are coexistent and overlap." Mills, 523 N.W.2nd at 544." This was not clarified by the North Dakota Supreme Court in this decision, but was left to be determined later.

The Bakke Family feels that this case will be a monumental decision affecting not only the 83 defendants of the case involving Brigham Oil & Gas, L.P. verses North Dakota Board of University and School Lands, et al. (Supreme Court No. 20130111), but also the case of Stanford A. Reep and Amy Reep verses State of North Dakota, et al. (Supreme Court No. 20130110), as these two cases have been consolidated. Undoubtedly, there will be more cases of the same nature involving many more defendants. The Bakke Family feels that these consolidated cases require the decision of a court with several judges and the stature of the North Dakota Supreme Court.

CONCLUSION

The Bakke Family would like the North Dakota Supreme Court to rule in favor of the defendants by declaring that they own the shore zone mineral acres between the low water mark and the high water mark. How refreshing it would be to see the North Dakota Supreme Court stand behind the average citizens of North Dakota rather than let the State of North Dakota lay claim to mineral acres the defendants have owned for years.

Dated: May 20, 2013

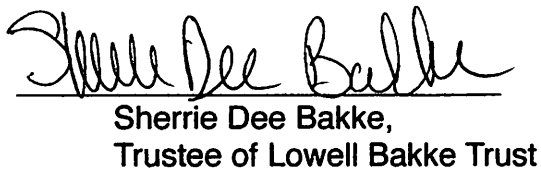
Respectfully submitted by:


Jerome Bakke

1314 Cottonwood Street
Grand Forks, ND 58201


Curtis Bakke

8936 South Quail Run Drive
Sandy, Utah 84093


Sherrie Dee Bakke,
Trustee of Lowell Bakke Trust

8936 South Quail Run Drive
Sandy, Utah 84093

By: JB/CB/SDB/mb

RECEIVED BY CLERK MAY 22 2013
SUPREME COURT
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STATE OF NORTH DAKOTA

DISTRICT COURT

COUNTY OF WILLIAMS

NORTHWEST JUDICIAL DISTRICT

CASE TYPE: CIVIL

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v.)

State of North Dakota, et al.,)

Defendants.)

and)

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Plaintiff,)

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North Dakota Board of University)
& School Lands, et al.,)

Defendants.)

Case No. 53-2012-CV-00213

Supreme Court No. 2013-0110

Case No. 53-2011-CV-00495

Supreme Court No. 2013-0111

Joint Notice of Appeal

CERTIFICATE OF SERVICE

As Defendants, JEROME BAKKE, CURTIS BAKKE, AND SHERRIE DEE BAKKE, TRUSTEE OF LOWELL BAKKE TRUST hereby certify that on May 20, 2013, we have sent copies of our Joint Notice of Appeal to the following defendants. A copy of these foregoing documents have been mailed by first class mail, postage paid, to the following attorneys and participants, with the exception of using registered mail to the Clerk of Court of the Williams County District Court:

Peter H. Furuseth
FURUSETH LAW FIRM, P.C.
P.O. Box 417
Williston, ND 58802-0417

Kent A. Reiersen
Crowley Fleck PLLP
PO Box 1206
111 E. Broadway
Williston, ND 58802-1206

**Attorneys for Defendant
City of Williston**

FREDERIKSON & BRYON,
P.A.

Lawrence Bender,
Amy L DeKok, &
Michael Schoepf
200 N. 3rd St., Suite 150
PO Box 1855
Bismarck, ND 58502-1855

**Attorneys for Plaintiff
Brigham Oil & Gas, L.P.**

Greg W. Hennessy
HENNESSY LAW
OFFICE, P.C.
417 1st Ave. E.
P.O. Box 756
Williston, ND 58802-0756

**Attorneys for Defendants
Beverly Sundet, Ricky
Vance, and Linda Kirkland**

NEFF EIKEN & NEFF P.C.
Charles L. Neff
P.O. Box 1526
Williston, ND 58802-1526

and

ROBINS, KAPLAN, MILLER
& CIRESI L.L.P.
Jan M. Conlin
Katie Crosby Lehmann
Richard B. Allyn
Sarah A. Poulos
Aaron R. Fahrenkrog
Andrew J. Pieper
2800 LaSalle Plaza
Minneapolis, MN
55402-2015

**Attorneys for Defendant
Kerry Hoffman**

Wayne Stenehjem, ND
Attorney General
Charles M. Carvell
Hope L. Hogan
Jennifer L. Verleger
Office of Attorney General
500 N. 9th Street
Bismarck, ND 58501-4509

**Attorneys for Defendant
North Dakota Board of
University & School
Lands**

Scott M. Knudsvig
Pringle & Herigstad, P.C.
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000

**Attorneys for Defendant
First National Bank &
Trust Co. of Williston,
Trustee of Hilda Noe
Grandchildren Trust**

**Attorneys for Defendant
American State Bank &
Trust Company as Trustee
of Frank W. Moran and
Mary Joan Moran Family
Minerals Trust
-and-**

**American State Bank &
Trust Company as Trustee
of Harris & Louise
Anderson Family Minerals
Trust U/A dated February
10, 2006**

H. Malcolm Pippin
Attorney at Law
P.O. Box 1525
Williston, ND
58802-1525

Kent Rockstad
U.S. Attorney's Office
655 First Ave. N., Suite 250
Fargo, ND 58102-4932

David T. Hermanson
MCKENNETT,
STENEHJEM, FORSBERG,
& VOLL, P.C.
314 First Avenue East
P.O. Box 1366
Williston, ND 58802-1366

Marlyce Wilder
Williams County State's
Attorney
P.O. Box 2047
Williston, ND 58802-2047

**Attorneys for Defendant
Williams County, ND**

Mark R. Hanson
Adam D. Wogsland
NILES, ILVEDSON,
PAMBECK, & SELBO
P.O. Box 2626
Fargo, ND 58108-2626

Larry A. Cramb, Sr.
301 3rd Street S.
Delano, MN 55328-8801
B.C. Harris
Ann Harris
1405 Cambridge Ct.
Shawnee, OK
74804-2333

Gary S. Schwab
218 South 5th Street, Apt. G
Springfield, IL 62701-1415
Pro Se

Shirley L. Schwab
805 West Fairmont Drive
Peoria, IL 61614-4242
Pro Se

Lois C. Zeigler
8 Oak Creek Drive
East Peoria, IL 61611-4843
Pro Se

Tom K. Hopgood
Attorney at Law
P.O. Box 1715
Helena, MT 59624-1715

Malcolm H. Brown
209 E. Broadway Ave.
P.O. Box 2692
Bismarck, ND 58502-2692

Randall T. Cox
COX, HORNING &
MCGRATH, L.L.C.
400 S. Douglas Highway
Gillette, WY 82716

**ATTORNEYS FOR
DEFENDANT
HARVEST OIL COMPANY,
LLC**

Thomas J. Conlin
CONLIN LAW FIRM, L.L.C.
600 Highway 169,
Suite 1650
Minneapolis, MN 55426

Jerome Bakke
1314 Cottonwood St.
Grand Forks, ND
58201-5520
Pro Se

Curtis Bakke
Sherrie Dee Bakke, Trustee
8936 South Quail Run Drive
Sandy, Utah 84093
Pro Se

Dennis E. Johnson
Johnson & Lundeen, LTD
109 5th Street SW
PO Box 1260
Watford City, ND 58854

**Attorneys for Defendant
Upstream Innovations,
Inc.**

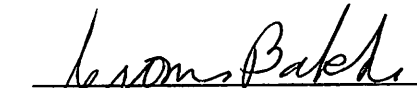
David R. Bossat
1220 Main Avenue
Suite 123
Fargo, ND 58103

Jodie Fixen, Clerk of District
Court
205 E. Broadway
P.O. Box 2047
Williston, ND 58802-2047

Dated: May 20, 2013


Respectfully submitted by,
The Bakke Family of:

Address:




Jerome Bakke

1314 Cottonwood Street
Grand Forks, ND 58201



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8936 South Quail Run Drive
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Honorable David W. Nelson

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As Defendants, JEROME BAKKE, Pro See for the BAKKE FAMILY, hereby certifies that on June 11, 2013, adjusted copies of our Joint Notice of Appeal have been mailed by Standard Post/Required Signature to the Clerk of Court of the North Dakota Supreme Court and on June 13, 2013 adjusted copies of our Joint Notice of Appeal have been mailed by first class, postage paid, to the following attorneys and participants and by Certified Mail to the Clerk of Court of the Northwest District Court and to the Clerk of Court of the North Dakota Supreme Court:

Peter H. Furuseth
FURUSETH LAW FIRM,
P.C.
P.O. Box 417
Williston, ND 58802-0417

Kent A. Reirson
Crowley Fleck PLLP
P.O. Box 1206
111 E. Broadway
Williston ND 58802-1206

FREDERIKSON & BRYON,
P.A.

Lawrence Bender,
Amy L DeKok, &
Michael Schoepf
200 N. 3rd St., Suite 150
PO Box 1855
Bismarck, ND 58502-1855

**Attorneys for Plaintiff
Brigham Oil & Gas, L.P.**

Greg W. Hennessy
HENNESSY LAW
OFFICE, P.C.
417 1st Ave. E.
P.O. Box 756
Williston, ND 58802-0756

**Attorneys for Defendants
Beverly Sundet, Ricky
Vance, and Linda Kirkland**

NEFF EIKEN & NEFF P.C.
Charles L. Neff
P.O. Box 1526
Williston, ND 58802-1526

and

ROBINS, KAPLAN, MILLER
& CIRESI L.L.P.

Jan M. Conlin
Katie Crosby Lehmann
Richard B. Allyn
Sarah A. Poulos
Aaron R. Fahrenkrog
Andrew J. Pieper
2800 LaSalle Plaza
Minneapolis, MN
55402-2015

**Attorneys for Defendant
Kerry Hoffman**

Wayne Stenehjem, ND
Attorney General
Charles M. Carvell
Hope L. Hogan
Jennifer L. Verleger
Office of Attorney General
500 N. 9th Street
Bismarck, ND 58501-4509

**Attorneys for Defendant
North Dakota Board of
University & School
Lands**

H. Malcolm Pippin
Attorney at Law
P.O. Box 1525
Williston, ND
58802-1525

Kent Rockstad
U.S. Attorney's Office
655 First Ave. N., Suite 250
Fargo, ND 58102-4932

David T. Hermanson
MCKENNETT,
STENEHJEM, FORSBERG,
& VOLL, P.C.
314 First Avenue East
P.O. Box 1366
Williston, ND 58802-1366

Scott M. Knudsvig
Pringle & Herigstad, P.C.
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000

**Attorneys for Defendant
First National Bank &
Trust Co. of Williston,
Trustee of Hilda Noe
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**Attorneys for Defendant
American State Bank &
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Moran Family Minerals
Trust
-and-
American State Bank &
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February 10, 2006**

H. Malcolm Pippin
Attorney at Law
P.O. Box 1525
Williston, ND
58802-1525

Kent Rockstad
U.S. Attorney's Office
655 First Ave. N., Suite
250
Fargo, ND 58102-4932

David T. Hermanson
MCKENNETT,
STENEHJEM,
FORSBERG,
& VOLL,

P.C.
314 First Avenue East
P.O. Box 1366
Williston, ND 58802-1366

Marlyce Wilder
Williams County State's
Attorney
P.O. Box 2047
Williston, ND 58802-2047

**Attorneys for Defendant
Williams County, ND**

Mark R. Hanson
Adam D. Wogsland
NILES, ILVEDSON,
PAMBECK, & SELBO
P.O. Box 2626
Fargo, ND 58108-2626

Larry A. Cramb, Sr.
301 3rd Street S.
Delano, MN 55328-8801
B.C. Harris
Ann Harris
1405 Cambridge Ct.
Shawnee, OK
74804-2333

Gary S. Schwab
218 South 5th Street, Apt.
G
Springfield, IL
62701-1415
Pro Se

Shirley L. Schwab
805 West Fairmont Drive
Peoria, IL 61614-4242
Pro Se

Lois C. Zeigler
8 Oak Creek Drive
East Peoria, IL
61611-4843
Pro Se

Tom K. Hopgood
Attorney at Law
P.O. Box 1715
Helena, MT 59624-1715

Malcolm H. Brown
209 E. Broadway Ave.
P.O. Box 2692
Bismarck, ND
58502-2692

Randall T. Cox
COX, HORNING &
MCGRATH, L.L.C.
400 S. Douglas Highway
Gillette, WY 82716

**ATTORNEYS FOR
DEFENDANT
HARVEST OIL
COMPANY, LLC**

Thomas J. Conlin
CONLIN LAW FIRM,
L.L.C.
600 Highway 169,
Suite 1650
Minneapolis, MN 55426

Dennis E. Johnson
Johnson & Lundeen, LTD
109 5th Street SW
PO Box 1260
Watford City, ND 58854

**Attorneys for Defendant
Upstream Innovations,
Inc.**

Curtis Bakke
Sherrie Dee Bakke,
Trustee
8936 South Quail Run
Drive
Sandy, Utah 84093
Pro Se

David R. Bossat
1220 Main Avenue
Suite 123
Fargo, ND 58103

Jodie Fixen, Clerk of
District Court
205 E. Broadway
P.O. Box 2047
Williston, ND 58802-2047

June 13, 2013

Respectfully submitted by:

JEROME BAKKE, Pro Se
for the BAKKE FAMILY of
Curtis Bakke, Sherrie Dee
Bakke, Trustee of the
Lowell Bakke Trust,



JEROME BAKKE

JB/mb