

**IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

Dudley J. Stuber, Trustee of the D.J.	)	
Stuber Land and Royalty Trust and	)	
Rocky R. Svihl, Trustee of the RGKH	)	
Mineral & Royalty Trust, Dated 11-1-	)	
95,	)	
	)	
Plaintiffs and Appellants,	)	
	)	Supreme Court No. 20160391
vs.	)	
	)	
Douglas F. Engel, Nikki Engel, Robert	)	
Candee, Colleen Rae Baxter, Dirk	)	
Ronald Baxter, Frank A. Steinbeck,	)	
Margaret Steinbeck, Lillian Dasinger, as	)	
Trustee of the Lillian Dasinger Family	)	
Trust, Tracy Dawn Rude, and Jason	)	
Scott Hukill,	)	
	)	
Defendants and Appellees,	)	
	)	
and	)	
	)	
EOG Resources, Inc.,	)	
	)	
Intervenor and Appellee.	)	

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Appeal from Judgment Dated October 3, 2016  
Case No. 53-08-C-765  
County of Williams, Northwest Judicial District  
The Honorable Joshua B. Rustad, Presiding

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**BRIEF OF INTERVENOR/APPELLEE AND ADDENDUM  
EOG RESOURCES, INC.**

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## STATEMENT OF CASE

¶ 1] Appellants Dudley J. Stuber, Trustee of the D.J. Stuber Land and Royalty Trust and Rocky R. Svihl, Trustee of the RGKH Mineral & Royalty Trust, Dated 11-1-95 (collectively hereinafter referred to as “Appellants”) commenced this lawsuit against Appellees Douglas F. Engel, Nikki Engel, Robert Candee, Colleen Rae Baxter, Dirk Ronald Baxter, Frank A. Steinbeck, Margaret Steinbeck, Lillian Dasinger, as Trustee of the Lillian Dasinger Family Trust, Tracy Dawn Rude, and Jason Scott Hukill (hereinafter collectively referred to as the “Engel Appellees”) on or about October 16, 2008. *See* Appellants’ Appendix (“App”), 1-11. By their Complaint, Appellants sought to quiet title to mineral interests they allege to have acquired from Northland Royalty Corporation (“Northland”) underlying real property located in Williams County, North Dakota and described as follows:

Township 153 North, Range 103 West

Section 6: Lot 7 (38.18), SE/4SW/4

Section 7: Lot 1 (38.23), N/2NE/4, SW/4NE/4, NE/4NW/4, N/2SE/4,  
SE/4SE/4

Section 8: NW/4NW/4, SW/4SW/4

(hereinafter the “Subject Property”). *See* App., 9-11. The Engel Appellees filed a Counterclaim seeking to quiet title to the minerals in and under the Subject Property in their names, as heirs and devisees of Helen Jaumotte. *See* App., 15-18. Intervenor and Appellee EOG Resources, Inc. (“EOG”) owns an interest in the mineral estate underlying the Subject Property by virtue of oil and gas leases executed by the Engel Appellees and Appellant Rocky R. Svihl, Trustee of the RGKH Mineral & Royalty Trust (“Svihl”). *See* App., 19-24. In order to protect these interests, EOG intervened in the above-entitled matter on July 8, 2011, asserting that regardless of who the Court determines is the

rightful owner of the Subject Property, EOG owns an interest in at least a portion of the oil and gas leasehold estate in and under the Subject Property. *Id.*

[¶ 2] On October 28, 2013, the District Court found as a matter of law, Jay Jaumotte was not authorized to act as the personal representative of the estates of either Victoria Davis or Helen Jaumotte with regard to the Subject Property, and consequently, did not have the power to issue a 1998 Mineral Deed to Northland. *See App.*, 25-31. The District Court denied both Appellants' Motion for Summary Judgment and the Engel Appellees' Cross-motion for Summary Judgment on the basis there were genuine issues of material fact on the issue of Northland's and Appellants' status as good faith purchasers. *Id.*

[¶ 3] A bench trial was held before the Honorable Joshua B. Rustad on August 31, 2015, on the sole issue of the whether Northland and Appellants were good faith purchasers without notice of the claim of the Engel Appellees. *See App.*, 1-8. The Engel Appellees and EOG argued that Northland, Appellants' predecessor in interest, and in turn, Appellants were put on inquiry notice of potential adverse claims to the Subject Property, and therefore, were not good faith purchasers of the Subject Property. *See Intervenor/Appellee EOG Resources, Inc. Supplemental Appendix ("Supp. App.")*, 1-265. On July 26, 2016, the Williams County District Court issued its Findings of Fact, Conclusions of Law, and Order for Judgment finding Northland and Appellants were not good faith purchasers and quieted title to the Subject Minerals, defined herein, in the Engel Appellees. *See App.* 121-126. The Court further found EOG had a leasehold interest in the Subject Minerals. *Id.* Judgment was entered on October 3, 2016. *See*

App., 127. On December 8, 2016, Appellants commenced the instant appeal by serving a copy of a Notice of Appeal upon the Engel Appellees and EOG. *See* App., 128-131.

### **STATEMENT OF FACTS**

#### **I. The Subject Minerals:**

[¶ 4] This is an action to quiet title in certain mineral interests in and under property in Williams and McKenzie counties. The parties to this quiet title action claim an estate or interest in minerals in the following described property:

Township 152 North, Range 104 West, Williams County, North Dakota

Section 8: E1/2SE1/4  
Section 9: SW1/4NW1/4, W1/2SW1/4  
Section 16: W1/2NW1/4  
Section 17: NE1/4NE1/4, Lot 4 (49.60) less a 7.75 acre tract more fully described in Book 83 of Deeds, page 292

Township 153 North, Range 103 West, Williams County, North Dakota

Section 6: Lot 7 (38.18). SE1/4SW1/4  
Section 7: Lot 1 (38.23), N1/2NE1/4, SW1/4NE1/4, NE1/4NW1/4, N1/2SE1/4, SE1/4SE1/4  
Section 8: NW1/4NW1/4, SW1/4SW1/4

Township 158 North, Range 100 West, Williams County, North Dakota

Section 7: SE1/4SE1/4  
Section 8: SW1/4SW1/4  
Section 17: NW1/4 SW1/4  
Section 18: Lots 2 (38.64), 2 (38.60), 4 (38.54), E1/2NE1/4, SE1/4NW1/4, E1/2SW1/4, N1/2SE1/4, SW1/4SE1/4  
Section 19: Lot 1 (38.50), NW1/4NE1/4, NE1/4

Township 158 North, Range 101 West, Williams County, North Dakota

Section 9: SW1/4NE1/4  
Section 29: S1/2NW1/4, N1/2SW1/4

Township 159 North, Range 100 West, Williams County, North Dakota

Section 34: E1/2SW1/4, NW1/4SW1/4

Township 159 North, Range 101 West, Williams County, North Dakota

Section 29: S1/2NW1/4



(hereinafter referred to as the “Williams County Minerals”). *See* App., 9-24. The Williams County Minerals contain approximately 1,952.54 acres, with the right of ingress and egress for the purpose of mining, drilling or otherwise extracting all hydrocarbons or other minerals. *Id.*

[¶ 5] Also at issue in this action is the ownership of the minerals underlying the following described real estate:

Township 151 North, Range 104 West, McKenzie County, North Dakota  
Section 8: NE1/4NE1/4  
Section 9: Lot 4 (28.25)

(hereinafter referred to as the “McKenzie County minerals”). *Id.* The Williams County Minerals and the McKenzie County Minerals are referred to hereinafter collectively as the “Subject Minerals.”

[¶ 6] EOG claims an interest in the oil and gas leasehold estate underlying the Subject Minerals by virtue of certain oil and gas leases given by the Engel Appellees, as well as a lease given by Svihl. *See* Supp. App., 266-561.

## **II. The Estate of Charlotte Nohle:**

[¶ 7] Ownership of the Subject Minerals originates with Charlotte Nohle (“Nohle”). At her death, Nohle had interests in other minerals, including a substantial amount located in Richland County, Montana. *See* Supp. App., 27. Nohle died testate in 1957. *See* App, 51. At the time of her death, Nohle resided in McKenzie County, North Dakota, where her estate was probated. *Id.* In her will, Nohle bequeathed an undivided 1/5<sup>th</sup> interest in the Subject Minerals to her sister, Victoria F. Davis. *See* Supp App. 29-30. A Final Decree of Distribution was entered on May 20, 1961. *See* App., 52-56.

### **III. The Estate of Victoria F. Davis:**

[¶ 8] Victoria F. Davis died in 1976. At the time of her death, Davis resided in Plentywood, Montana, in Sheridan County. *See* Supp. App., 83. Davis' Will was probated in the Fifteenth Judicial Court of Sheridan County, Montana. *See* App., 41-44. Letters of Appointment of Helen Jaumotte, as personal representative of Victoria Davis' estate, were issued by the Court and accepted by Helen Jaumotte on May 5, 1976. *Id.*

[¶ 9] In 1992, after Helen Jaumotte's death, her husband, Jay Jaumotte, was appointed the successor Personal Representative of the Estate of Victoria F. Davis and letters were issued and accepted by Jay Jaumotte in April 1992. *Id.* The Last Will and Testament of Victoria F. Davis devised all of her right, title and interest in and to the Subject Minerals to her daughter, Helen Jaumotte. *See* App., 37-40. Neither Helen nor Jay Jaumotte ever obtained or recorded a certified copy of an order or proof of authority from a North Dakota court establishing that a copy of authenticated or certified letters of domiciliary foreign personal representative and (bond) was filed with the court. *See* App., 25-31.

### **IV. The Estate of Helen Jaumotte:**

[¶ 10] Helen Jaumotte was married to Jay Jaumotte. *See* App., 72-3. They had no children. *Id.* Helen Jaumotte died in Maricopa County, Arizona, in 1991. *Id.* At the time of her death, she was domiciled in Yavapai County, Arizona. *See* Supp. App., 45, 71.

[¶ 11] The Last Will and Testament of Helen Jaumotte contained the following provision:

## VI.

I give to my husband, if he survives me by thirty days, the use and enjoyment of the income from the mineral interests in lands formerly owned by CHARLOTTE C. NOHLE, and given to me by my mother, VICTORIA F. DAVIS. Upon my husband's death, those mineral interests and the use and enjoyment thereof revert to the issue of CHARLOTTE C. NOHLE, in keeping with her Will, specifically to FLOYD A. ENGEL, MRS. ELLA STEINBECK, MRS. DOROTHY FREEMAN, AND MRS. CECIL BAXTER, and each of their issue by representation.

App., 45-49. The Engel Appellants claim a right or interest in the Subject Minerals as issue of Floyd A. Engel, Elle Steinbeck, Dorothy Freeman and Cecil Baxter based on this provision in the Last Will and Testament of Helen Jaumotte. *Id.*

[¶ 12] The Last Will and Testament of Helen Jaumotte was submitted to probate in the Superior Court of the State of Arizona, for the County of Yavapai, Case No. 17298. *See* App., 59-65. Letters of Personal Representative appointing Jay Jaumotte the Personal Representative of the Estate of Helen Jaumotte were accepted in September 1991. *Id.*

[¶ 13] The Estate of Helen Jaumotte remained open until at least July 21, 1999, when Robert Chessir, attorney for Personal Representative Jay Jaumotte, filed an Affidavit of Counsel, Inventory and Appraisal, Closing Statement, Waiver of Tax, and Instrument of Distribution. *Id.*

## V. Purchase of the Subject Minerals by Northland Royalty:

[¶ 14] At the trial in this matter, Appellants called Richard Keller, the President/Owner of Northland to testify. Keller has worked as a landman in the oil and gas industry for approximately forty-three (43) years. *See* Supp. App. 21. As a landman, Keller has extensive experience in checking and confirming title to and ownership of

minerals, as well as experience in the sale, purchase, and leasing of minerals in the State of North Dakota. *See* Supp. App., 21-22. In his work as a landman, Keller would review property records in the county recorder's office and court records, including probate documents. *Id.* Keller also testified he was familiar with the probate process, including the purpose of ancillary probates and the powers and duties of personal representatives. *See* Supp. App., 78-81.

[¶ 15] Keller testified that in or about March of 1997, while reviewing property records in Richland County, Montana, he became aware of the Subject Minerals owned by Charlotte Nohle at her death. *See* Supp. App., 26-28. At the time, Keller was looking for minerals that were open for leasing by Northland. *Id.* The documents discovered by Keller in his search of the county records identified Victoria Davis as one of the heirs of Charlotte Nohle and devisee of one-fifth (1/5) of Charlotte Nohle's interest in the Subject Minerals. *See* Supp. App., 29-30. Thereafter, Keller obtained copies of the Last Wills of Charlotte Nohle and Victoria Davis. *See* Supp. App., 31, 35. Keller testified he was aware Victoria Davis was deceased and, by her Last Will, she devised all of her interest in the Subject Minerals to her daughter, Helen Jaumotte. *See* Supp. App., 35, 86-88.

[¶ 16] Keller further testified he obtained copies of court documents indicating Helen Jaumotte had passed away approximately seven or eight years earlier and her surviving spouse, Jay Jaumotte, had been appointed the successor personal representative of the Estate of Victoria Davis in the State of Montana following the death of Helen Jaumotte. *See* Supp. App., 34-35, 43-45; *see also* App., 41-44. Keller was also aware Helen Jaumotte was initially appointed as personal representative of the Estate of Victoria Davis in Montana. *Id.* Keller testified, as part of his due diligence in confirming

title to the Subject Minerals, he searched records in both Williams and McKenzie Counties in North Dakota. *See* Supp. App., 34. He admitted he did not locate any documents indicating a court in North Dakota had authorized Jay Jaumotte to deal with any property in the State of North Dakota owned by Charlotte Nohle, Victoria Davis or Helen Jaumotte, or their respective estates. *See* Supp. App., 89-90.

[¶ 17] Once Keller identified the heirs of Charlotte Nohle and the potential owners of the Subject Minerals, he contacted them via letter to gauge their interest in leasing their purported interest in the Subject Minerals to Northland. *See* Supp. App., 32-33, 37-38, 562-66, 596. With respect to the interest devised to Victoria Davis and then to Hellen Jaumotte, Keller testified he was in contact with Jay Jaumotte to determine his interest in leasing. *Id.* Keller testified that initially, Jay Jaumotte expressed interest in leasing his purported interest in the Subject Minerals; however, eventually, he decided he would prefer to sell his purported interest to Northland. *See* Supp. App., 40, 49. During their communications, Jay Jaumotte informed Keller he was the personal representative for the Estate of Victoria Davis and for the Estate of his deceased wife, Helen Jaumotte. *See* Supp. App., 41.

[¶ 18] Despite this knowledge that Jay Jaumotte had been appointed the personal representative of the Estate of Helen Jaumotte, Keller admitted at trial he did not inquire with Jay Jaumotte as to whether Helen Jaumotte had a will indicating her final wishes as to her interest in the Subject Minerals. *See* Supp. App., 66-67, 70. Keller further admitted that his only effort to locate the Last Will and Testament of Helen Jaumotte was to place a call or send a letter to Maricopa County, Arizona, the county of residence of Jay Jaumotte at that time of their communications (approximately seven years after the

death of Helen Jaumotte). *Id.* There was no probate opened in Maricopa County because Helen Jaumotte was not domiciled in Maricopa County at her death. *See* Supp. App., 567-95. Rather, Helen Jaumotte was domiciled in Yavapai County, Arizona at the time of her death. *Id.* Despite knowing a probate of Helen Jaumotte’s estate had been opened somewhere and that Jay Jaumotte had been appointed personal representative of Helen Jaumotte’s estate, Keller testified at trial that he made no further effort to track down the probate matter or a copy of Helen Jaumotte’s Last Will and Testament. *See* Supp. App., 71-72. Keller admitted he did not inquire or confirm with Jay Jaumotte the county of residence of Helen Jaumotte at her death or the location of the probate of her estate.<sup>1</sup> *Id.*

[¶ 19] Almost a year after his communications with Keller, Jay Jaumotte executed deeds in favor of Northland purporting to convey of all his “right, title and interest”, individually, as Personal Representative of the Estate of Helen Jaumotte, and as sole Successor Personal Representative of the Will and Estate of Victoria F. Davis, both deceased, in the Subject Minerals. *See* App., 66-70. Northland paid a total of \$15,000 for the Subject Minerals, and minerals in the State of Montana through a 60-day sight draft dated July 6, 1998. *See* Supp. App., 51-52; *see also* App., 71. Keller did nothing

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<sup>1</sup> Keller requested that Jay Jaumotte complete a Proof of Death and Heirship document with respect to Helen Jaumotte. *See* Supp. App., at 46-47, 74-75; *see also* App., 72-73. Item 4 on the document asked whether the decedent (i.e. Helen Jaumotte) left a will, whether the estate had been probated, and if so, in what city, county and state. *See* App., 72-73. Keller admitted at trial that the answers to those questions are important and they have a purpose. *See* Supp. App., 76. However, Jay Jaumotte did not complete those questions and Keller did not follow-up with Jay Jaumotte to confirm this information. *See* Supp. App., 109.

further to confirm title to the Subject Minerals prior to the sight draft being paid. *See* Supp. App., 52-53, 99-100.

[¶ 20] At the time Jay Jaumotte executed the deeds purporting to convey an interest in the Subject Minerals to Northland, he had no authority to deal with any real property owned by Victoria Davis or Helen Jaumotte in the State of North Dakota. *See* App., 25-31. Moreover, Keller acknowledged at trial that if he had reviewed a copy of the Last Will and Testament of Helen Jaumotte, it would have been clear to him that Jay Jaumotte only had a life estate interest in the Subject Minerals pursuant to the terms of the Will. *See* Supp. App., 104-05.

**VI. Purchase of the Subject Minerals by Appellants:**

[¶ 21] In or about 1998, Keller contacted Appellants to see if they would be interested in purchasing the Subject Minerals that Northland intended to acquire from Jay Jaumotte. *See* Supp. App., 54-55. Keller had sold mineral interests to Appellants in the past and knew they were generally interested in purchasing these types of interests. *See* Supp. App., 54-55, 161-62. Appellants both testified at trial they worked as landmen in the oil and gas industry for approximately twelve (12) and fifteen (15) years, respectively, and they have been buying and selling minerals for several years. *See* Supp. App., 160-61, 219-22. Appellants expressed interest in purchasing the Subject Minerals from Northland. *See* Supp. App., 163-65. Keller testified that prior to selling the Subject Minerals to Appellants, he provided them copies of all of the documents and information he obtained as part of his due diligence process relating to the Subject Minerals. *See* Supp. App., 129, 168-69, 222-24.

[¶ 22] By a Mineral deed dated July 15, 1998, Northland executed and delivered a deed purporting to convey all of its right, title, and interest in the Williams County Minerals to the Outback Lumber Supply, Inc. (“Outback Lumber”) and Appellants, which was an undivided 20% interest in the Williams County Minerals. *See App.*, 74-75. Under the deed, Outback Lumber received an undivided 50% of the undivided 20%. Appellants each received an undivided 25% of the undivided 20% of the Williams County Minerals. *Id.* Appellants paid Northland \$15,000 for the Williams County minerals. *See Supp. App.*, 165-66; *see also App.*, 78-79. By a Mineral Deed dated March 4, 2004, Outback Lumber executed and delivered a deed of all of its interest to Appellants, with each Appellant receiving 50% of Outback Lumber’s interest in the Williams County Minerals. *See App.*, 76-77.

[¶ 23] By a Mineral Deed dated January 11, 1999, Northland executed and delivered a deed purporting to convey all of its right, title and interest in the McKenzie County Minerals to Appellant Dudley J. Stuber, Trustee of the D.J. Stuber Land and Royalty Trust (“Stuber”). *See App.*, 80-81. Under the deed, Stuber received an undivided 20% net mineral acre interest, containing 68.25 acres. *Id.*

[¶ 24] Prior to purchasing the Subject Minerals from Northland, Appellants were provided all of the documentation and information possessed by Northland, but conducted no further inquiry of their own and simply relied on the word of Keller regarding ownership of the Subject Minerals. *See Supp. App.*, 168-70.

**VII. Oil and Gas Leases Covering the Subject Minerals:**

[¶ 25] On July 31, 2009, Appellees Douglas F. Engel and Niki Engel, John F. Steinbeck and Margaret Steinbeck, and Frank A. Steinbeck and Patricia Steinbeck, a/k/a



Patricia E. Steinbeck entered into Oil and Gas Leases with LoneTree Energy & Associates, LLC (“LoneTree”), covering their interests in and to the minerals in and under a portion of the Subject Property (hereinafter collectively referred to as the “LoneTree Leases”). *See* Supp. App., 266-78. LoneTree assigned the LoneTree Leases to EOG via an Assignment of Oil and Gas Leases, dated February 2, 2010 (the “LoneTree Assignment”). *See* Supp. App., 279-363.

[¶ 26] On October 14, 2009, Appellees Jason Scott Hukill and Tracy Dawn Rude each entered into an Oil and Gas Lease with EOG covering their interests in and to the minerals in and under a portion of the Subject Property. *See* Supp. App., 364-71.

[¶ 27] In or about January, 2009, Appellees Douglas F. Engel and Niki Engel, Frank A. Steinbeck and Patricia E. Steinbeck, and John F. Steinbeck and Margaret Steinbeck, respectively entered into an Oil and Gas Lease with Premiere Land Services, LLC (“Premiere”), covering their interests in and to the minerals in and under a portion of the Subject Property (hereinafter collectively referred to as the “Premiere Leases”). *See* Supp. App., 372-80.

[¶ 28] Premiere assigned the Premiere Leases to LoneTree, via an Assignment of Oil and Gas Leases, dated July 17, 2009. *See* Supp. App., 381. Premiere and LoneTree executed a Corrected Assignment of Oil and Gas Leases, with an effective date of July 1, 2009. *See* Supp. App., 382-413. LoneTree assigned the Premiere Leases to EOG via an Assignment of Oil and Gas Leases, dated February 2, 2010 (the “Premiere Assignment”). *See* Supp. App., 414-44.

[¶ 29] On September 14, 2009, Appellee Lillian Dasinger, Trustee of the Lillian Dasinger Family Trust, entered into an Oil and Gas Lease with EOG covering the

minerals in and under a portion of the Subject Property. *See* Supp. App., 445-48. Appellee Tracy Dawn Rude entered into an Oil and Gas Lease with EOG covering the minerals in and under a portion of the Subject Property, dated October 1, 2009. *See* Supp. App., 449-52. On October 3, 2009, Appellee Jason Scott Hukill entered into an Oil and Gas Lease with EOG covering the minerals in and under a portion of the Subject Property. *See* Supp. App., 453-56. Appellee Jason Scott Hukill entered into another Oil and Gas Lease with EOG covering the minerals in and under a portion of the Subject Property, dated May 7, 2010. *See* Supp. App., 457-59. On January 13, 2010, Appellee Lillian Dasinger, Trustee of the Lillian Dasinger Family Trust, entered into an Oil and Gas Lease with EOG covering the minerals under a portion of the Subject Property. *See* Supp. App., 460-62.

[¶ 30] Svihl entered into an Oil and Gas Lease with Diamond Resources, Inc. (“Diamond”), covering the minerals in and under a portion of the Subject Property, dated August 4, 2008 (the “Svihl Lease”). *See* Supp. App., 463-69. Diamond assigned the Svihl Lease to Spring Creek Exploration and Production Company, LLC (“Spring Creek”), via an Assignment of Oil and Gas Lease dated July 20, 2010. *Id.* Spring Creek assigned the Svihl Lease to Zavanna, LLC (“Zavanna”), via an Assignment of Oil and Gas Lease, dated July 26, 2010. *See* Supp. App., 470-76. Zavanna and Spring Creek assigned the Svihl Lease to RoDa Drilling Company, LLC (“RoDa”) and Zeneco, Inc. (“Zeneco”), via a Partial Assignment, Bill of Sale, Conveyance, and Assumption, effective September 1, 2010. *See* Supp. App., 477-556.

[¶ 31] RoDa and Zeneco assigned the Svihl Lease to EOG via an Assignment of Oil and Gas Leases, effective April 1, 2011. *See* Supp. App., 557-61.

## LAW AND ARGUMENT

### **I. APPELLANTS FAILED TO PRESERVE FOR APPEAL EOG'S INTEREST IN AND TO A PORTION OF THE OIL AND GAS LEASEHOLD ESTATE IN AND UNDER THE SUBJECT PROPERTY.**

[¶ 32] Appellants fail to preserve for appeal the District Court's ruling that EOG has a leasehold interest in the Subject Minerals pursuant to the Engel Appellees' oil and gas leases, and therefore, Appellants waived their right to relief on this issue. "[F]ailure to adequately brief [arguments on appeal] precludes relief on [those] issue[s]." *Darby v. Swenson Inc.*, 2009 ND 103, ¶ 23, 767 N.W.2d 147. At trial, Appellants and the Engel Appellees asserted that title to the Subject Property must be quieted in them because they are successors in interest to Charlotte Nohle. The District Court properly held that EOG has a leasehold interest in and under the Subject Property pursuant to the Premiere Leases, the LoneTree Leases, and the leases EOG acquired directly from the Engel Appellees Lillian Dasinger, as Trustee of the Lillian Dasinger Family Trust, Tracy Dawn Rude, and Jason Scot Hukill, all of which are of record with the Williams County Recorder. *See* App., 121-26; *see also* Supp. App., 266-462. As such, regardless of the determination of the remaining issues on appeal, EOG's leasehold interest in the Subject Minerals pursuant to the Engel Appellees' oil and gas leases apply. Any right or interest granted to Appellants in the Subject Minerals on the remaining issues preserved for appeal, are subject to EOG's oil and gas leases with the Engel Appellees.

[¶ 33] In the alternative, even if the District Court erred in determining that the Engel Appellees own the Subject Property, and that Appellants properly preserved this

issue for appeal, EOG still maintains a leasehold interest in and under the Subject Property by virtue of the Svihl Lease, which is of record with the Williams County Recorder. *See* Supp. App., 463-69.

**II. THE DISTRICT COURT DID NOT ERR IN HOLDING N.D.C.C. § 30.1-18-14 DID NOT APPLY TO THE TRANSACTION BETWEEN JAY JAUMOTTE AND NORTHLAND.**

[¶ 34] Notwithstanding the foregoing, Northland asserts the District Court erred in not applying N.D.C.C. § 30.1-18-14 to the transaction between Jay Jaumotte and Northland. Following a bench trial, questions of law are reviewed de novo. *In re Papio Keno Club*, 262 F.3d 725, 731 (8th Cir. 2001). Statutory interpretation is a question of law that is fully reviewable on appeal. *See Minnkota Power Coop., Inc. v. Anderson*, 2012 ND 105, ¶ 6, 817 N.W.2d 325.

[¶ 35] Here, the District Court properly held on summary judgment that Northland, and therefore, Appellants, were not entitled to the protection of N.D.C.C. § 30.1-18-14 because Jay Jaumotte failed to file with a court in North Dakota certified copies of the proof of his appointment as personal representative of the Estate of Victoria Davis or of Helen Jaumotte pursuant to N.D.C.C. § 30.1-24-05. *See* App., 25-31. In an attempt to create confusion, Appellants argue that there are different versions of the term “personal representative”, and therefore, the Court must resort to statutory interpretation to determine whether N.D.C.C. § 30.1-18-14 applies to Jay Jaumotte as a personal representative appointed in another jurisdiction. This is not the case. In fact, N.D.C.C. § 30.1-24-05 is not ambiguous as to the term “personal representative” and clearly sets forth the conditions for a domiciliary foreign personal representative, like Jay Jaumotte, to verify his appointment and obtain authority from a court in North Dakota:

If no local administration or application or petition for local administration is pending in this state, a domiciliary foreign personal representative may file with a court in this state, in a county in which the property belonging to the decedent is located, authenticated or certified copies of the person's appointment and of any official bond has given, and the court shall enter an order establishing the filing of these copies.

N.D.C.C. § 30.1-24-05. The conditions stated in N.D.C.C. § 30.1-24-05 are prerequisites to dealing with North Dakota property on behalf of an estate:

A domiciliary foreign personal representative who has complied with section 30.1-24-05 may exercise, as to assets in this state, all powers of a local personal representative and may maintain actions and proceedings in *this* state subject to any conditions imposed upon nonresident parties generally.

N.D.C.C. § 30.1-24-06. As set forth by the Engel Appellees in their Cross-Motion for Summary Judgment and as adopted by EOG, a domiciliary foreign personal representative authorized under N.D.C.C. §§ 30.1-24-05 and 30.1-24-06 also must comply with those rules required of all personal representatives dealing with property located in North Dakota. *See* N.D.C.C. § 30.1-24-08. Additional requirements for a domiciliary foreign personal representative pursuant to N.D.C.C. §§ 30.1-24-05 and 30.1-24-06, include but are not limited to, the filing of “authenticated or certified copies of the person’s appointment” certified on or after the date of the title transaction to confirm the foreign personal representative’s authority. Additionally, pursuant to the North Dakota Title Standards' Practice Guide, the following is required for a domiciliary foreign personal representative to properly transfer title:

- i. Certified copy of an order or proof of authority from a North Dakota court establishing that a copy of authenticated or certified letters of the domiciliary foreign personal representative and bond (if any) was filed with the court.

- ii. Copy of letters of a domiciliary foreign personal representative certified on or after the date of the conveyance.
- iii. Personal representative's deed; and
- iv. An estate tax clearance, if required.

NDTS PG-16-17.

[¶ 36] As to this issue, it is undisputed Jay Jaumotte failed to take court action to obtain the proper authority to act as a domiciliary foreign personal representative in North Dakota. *See App.*, 25—31; *see also Supp. App.*, 1-265. Jay Jaumotte never obtained a certified copy of an order or proof of authority from a North Dakota Court establishing that a copy of the “authenticated or certified copies of the person’s appointment, in this case authenticated or certified letters of the domiciliary foreign personal representative and bond, was filed with the court. *Id.* Due to the fact Jay Jaumotte did not have this proof of authority, the District Court properly held that Jay Jaumotte did not have any authorization or power to transfer property within North Dakota on behalf of the estate of either Victoria Davis or Helen Jaumotte. *See App.*, 25-31. Moreover, Northland could not acquire any right, title, or interest to Victoria Davis’ or Helen Jaumotte’s property because Jay Jaumotte was without authority to deal in North Dakota on behalf of these estates. *Id.* Accordingly, Appellants cannot quiet title to property to which they have no legal or record title. The District Court did not err in holding that N.D.C.C. § 30.1-18-14 did not apply to the transaction between Northland and Jay Jaumotte because copies of Foreign Letters Testamentary appointing Jay Jaumotte as personal representative were not obtained from a court in North Dakota.

[¶ 37] As set forth in more detail below, based on the undisputed facts on the record showing that Jay Jaumotte did not have the authority or ability to transfer the Subject Property to the Appellants, the only way the Appellants could take the Subject Property is if they were good faith purchasers without notice of the Engel Appellees' interests. *Id.*

**III. THE DISTRICT COURT DID NOT ERR IN DETERMINING NORTHLAND WAS NOT A GOOD FAITH PURCHASER OF THE SUBJECT MINERALS PURSUANT TO N.D.C.C. § 30.1-18-14.**

A. The District Court Did Not Err in Not Applying the “Actual Notice” Standard to the Good Faith Requirements of N.D.C.C. § 30.1-18-14.

[¶ 38] The evidence offered at trial demonstrates that Northland and, in turn, Appellants, were put on inquiry notice of a potential adverse claim to the Subject Minerals and failed to investigate or inquire further, and therefore, were not good faith purchasers under the Uniform Probate Code (“UPC”). Section 30.1-18-14 of the North Dakota Century Code states:

A person who in good faith . . . deals with the personal representative for value is protected as if the personal representative properly exercised the personal representative's power. The fact that a person knowingly deals with a personal representative does not alone require the person to inquire into the existence of a power or the propriety of its exercise.

N.D.C.C. § 30.1-18-14. Thus, “no provision in any will or order of court purporting to limit the power of a personal representative is effective except to persons with actual knowledge thereof.” *Boe v. Rose*, 574 N.W.2d 834, 835-36 (N.D. 1998). However, the purchaser must still be a *good faith* purchaser to take title to the property. *See* N.D.C.C. § 30.1-18-14; *see also Green v. Gustafson*, 482 N.W.2d 842, 845 (N.D. 1992) (emphasis added).

[¶ 39] Appellants reliance on a one line example hypothetical in *Boe* to assert that an “actual notice” standard applies to the “good faith” requirements of N.D.C.C. § 30.1-18-14 is misplaced. The North Dakota Century Code defines good faith as “an honest intention to abstain from taking any unconscientious advantage of another even through the forms or technicalities of law, together with an absence of all information or belief of facts which would render the transaction unconscientious.” N.D.C.C. § 01-01-21. In other words, to be a purchaser in good faith, a person must not have information or belief of facts that show the transaction is unconscientious. *Id.* In *Boe*, there was evidence that the personal representative and purchaser had “discussions about the need for the devisees’ consent” to the sale of property. *Boe*, 574 N.W.2d at 836. This created an issue of whether the purchaser had notice that the personal representative did not have power to sell the property, and thus an issue of whether the purchaser acted in good faith. *Id.* *Boe’s* ruling was made in the context of a summary judgment proceeding, and Appellants’ reliance on the Court’s hypothetical example of what may constitute bad faith was in no way meant to be exhaustive of the ways a trier of fact could determine whether the purchaser acted in good faith.

[¶ 40] Moreover, when the South Dakota Supreme Court interpreted a statute identical to N.D.C.C. § 30.1-18-14, it held that “to be protected by [the statute], the [plaintiffs] must be good faith purchasers for value.” *Muhlbauer v. Estate of Olson*, 2011 SD 42, ¶ 6, 801 N.W.2d 446, 448. That court held that, in this context, “good faith” meant that the purchasers were without notice of the defendant-heirs’ interests in the property. *Id.* at ¶ 7. Furthermore, even the Editorial Board comments to section 30.1-18-



14 show that the provision should not protect those who have constructive notice of facts.

The comments state:

The purpose of the [UPC] is to make the deed or instrument of distribution the usual muniment of title. *See* 3-907, 3-908, 3-910. However, this is not available when no administration has occurred and in that event reliance upon general recording statutes must be had. If a state continues to permit wills to be recorded as muniments of title, the above section would need to be qualified to give effect to the notice from recording.

Editorial Board Comment, Uniform Probate Code § 3-714 (equivalent to N.D.C.C. § 30.1-18-14). Accordingly, the District Court did not err in holding that the “actual notice” standard to the good faith requirements of N.D.C.C. § 30.1-18-14 did not apply.

B. Northland and Appellants had Inquiry Notice of a Potential Adverse Claim to the Subject Minerals.

[¶ 41] The District Court properly held that Northland and Appellants were put on inquiry notice of a potential adverse claim to the Subject Minerals and thus did not deal with Jay Jaumotte, the personal representative, in good faith. The North Dakota Supreme Court has held that “[t]he issue of good faith is similar to the issue of constructive notice in that both issues require an examination of the information possessed by a person.” *Nygaard v. Robinson*, 341 N.W.2d 349, 355 (N.D. 1983); *see also Diocese of Bismarck Trust v. Ramada, Inc.*, 553 N.W.2d 760, 768 (N.D. 1966) (stating that “issues of good faith and constructive notice are similar . . .”). Constructive notice is “actual notice of circumstances sufficient to put a prudent person upon inquiry as to a particular fact and [a person] who omits to make such inquiry with reasonable diligence is deemed to have constructive notice of the fact itself.” N.D.C.C. § 01-01-25. To put a purchaser on constructive notice of another’s interest in real property, the

information need not explicitly detail the other person's claim. *Nygaard*, 341 N.W.2d at 356. The information is sufficient if it gives the purchaser a "reasonable ground to believe that a conflicting right" to the property may exist. *Id.* In *Nygaard*, the Court stated that to have constructive notice, the circumstances need only give the purchaser the duty to investigate. *Id.*

[¶ 42] There is further proof that the UPC, while qualifying a purchaser's duty to investigate, does not erase the duty altogether. N.D.C.C. § 30.1-18-14 states that "[t]he fact that a person knowingly deals with a personal representative **does not alone** require the person to inquire into the existence of a power or the propriety of its exercise." N.D.C.C. § 30.1-18-14 (emphasis added). This implies that other circumstances, such as constructive notice of an adverse claim, may give rise to a duty to inquire into the existence of a personal representative's power. This is in line with the doctrines of good faith and constructive notice which require the purchaser to examine the information possessed by him to determine the personal representative's power to convey the real property. *See Nygaard*, 341 N.W.2d at 355.

[¶ 43] The only way Northland and, in turn, Appellants, could acquire an interest in the Subject Minerals is if they were good faith purchasers without notice of any adverse claims. Although N.D.C.C. § 30.1-18-14 and *Boe* show that a person need not obtain a will or search other records when dealing with a personal representative, they still must deal with the personal representative in good faith. Thus, to prevail in this matter, Appellants must prove that neither they nor Northland had knowledge of any facts that would put a prudent person on notice of a potential adverse claim to the Subject Minerals.

[¶ 44] Furthermore, Appellants reliance on *Cowley v. Kaechelle*, 696 P.2d. 1354 (Ariz. Ct. App. 1984), in asserting that unless an individual dealing with the personal representative has actual knowledge of a limitation on the personal representative's powers, that individual is entitled to the protections of N.D.C.C. § 30.1-18-14, is misplaced. In *Cowley*, the Court determined that there was nothing in the "record that would have required Thomas to investigate the existence of any restrictions on [the personal representative's] authority to sell the real property of the estate." That is not the case here. The facts established at trial demonstrate that there was ample evidence of adverse claims that any purchaser, especially experienced landmen with years of experience and familiarity with the probate process, would take notice of. First, public record in North Dakota, which Keller claims to have personally reviewed, revealed that Jay Jaumotte had no authority to convey the Subject Property. *See* Supp. App., 34, 89-90. In addition, Northland and Appellants obtained copies of the wills of Charlotte Nohle and Victoria Davis and thus, were aware that Helen Jaumotte was entitled to the interest of Victoria Davis in the Subject Minerals at Victoria's death. *See id.* at 31, 35, 86-88, 129, 168-69, 222-24. Moreover, Northland and Appellants knew that Jay Jaumotte had been appointed the personal representative of the estate of his deceased spouse, Helen Jaumotte, and that a probate of her estate had been opened somewhere. *See id.* However, neither Northland nor Appellants, experienced landmen with familiarity with the probate process, asked Jay Jaumotte for a copy of the Last Will of Helen Jaumotte (or whether one even existed), inquired with Jay Jaumotte as to when and where the probate of her estate was opened, or confirmed her county of residence at her death. *See id.* at 71-72, 170. Unlike in *Cowley*, this is all evidence that Northland and Appellants possessed

knowledge that should have lead them to inquire as to the authority of Jay Jaumotte to convey an interest in the Subject Minerals and, at a minimum, put them on inquiry notice of a potential problem with the Subject Minerals.<sup>2</sup>

C. Northland and Appellants Failed to Investigate the Potential Adverse Claim to the Subject Minerals.

[¶ 45] Because Northland and Appellants were put on inquiry notice of a potential problem with the Subject Minerals, they had a duty to investigate. The duty of inquiry under N.D.C.C. § 01-01-25 requires the inquiry to be more than superficial. *Nygaard*, 341 N.W.2d at 356. The purchaser must act with “reasonable diligence.” *Id.* This is true even if the purchaser does not “appreciate its duty” to investigate potential conflicting interests. *Id.* Rather, “it is the performance of the duty and not the understanding of it or lack thereof that determines the rights of parties.” *Id.* (citation omitted).

[¶ 46] In this instance, the only attempt at an inquiry by Northland was Keller placing a call or sending a letter to the clerk in Maricopa County, Arizona to inquire whether a probate had been opened relating to the estate of Helen Jaumotte. *See* Supp. App., 66-67, 70. Keller testified that he assumed Maricopa County was the county of

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<sup>2</sup> Northland also required Jay Jaumotte to sign a Proof of Death and Heirship. *See* Supp. App., 46-47, 74-75; *see also* App., 72-73. This was done because Keller felt he needed further assurance of Jay Jaumotte’s power to convey the Subject Minerals, in the event that the conveyance was ever challenged. *See* Supp. App., 70-71. Further, Jay Jaumotte signed the deed to Northland as an individual, and as the purported Personal Representative of Helen Jaumotte’s and Victoria Davis’ estates. *See* App., 74-77. This is evidence that Keller was unsure of the chain of title and attempting to cover Northland to ensure the validity of the sale.

residence of Helen Jaumotte at her death in 1991 because it was the county of residence of Jay Jaumotte at the time of their communications regarding the Subject Minerals in 1997. *Id.* However, Keller knew that Helen Jaumotte had passed away almost seven years earlier and admits that he did not confirm her county of residence with her surviving spouse, Jay Jaumotte. *See id.* at 71-72. Despite knowing that a probate of Helen Jaumotte's estate had been opened somewhere and that Jay Jaumotte had been appointed personal representative of Helen Jaumotte's estate, Keller testified at trial that he made no further effort to track down the probate matter or a copy of Helen Jaumotte's Last Will and Testament. *Id.*

[¶ 47] Prior to purchasing the Subject Minerals from Northland, Appellants were provided all of the documentation and information possessed by Northland, but conducted no further inquiry of their own and simply relied on the word of Keller regarding ownership of the Subject Minerals. *See id.* at 170. Northland and Appellants are experienced landmen admittedly familiar with the probate process. They should have inquired further to ensure the authority of Jay Jaumotte to deal with property interests in the State of North Dakota, as well as to confirm the ownership of the Subject Minerals. Because Northland and Appellants failed to conduct any inquiry in light of the knowledge and information they possessed, they were not good faith purchasers and may not receive the protections of N.D.C.C. § 30.1-18-14.

[¶ 48] Moreover, Appellants' assertions that regardless of Northland's purchase, Appellants are a bona fide purchaser for value without notice of Helen Jaumotte's Will, and therefore, took title to the Subject Minerals is without merit. The bona fide purchaser doctrine states that "[a] good faith purchaser must acquire rights without *actual or*

*constructive notice* of another’s rights.” *Chornuk v. Nelson*, 2014 ND 238, ¶ 13, 857 N.W.2d 587. Here, the public was on notice that Jay Jaumotte did not have authority to deal with property located in North Dakota. No such protection is offered under section 30.1-18-14 to purchasers who deal with an individual who has no authority to deal with the estate's property. Section 30.1-18-14 only affords protection to those acting in good faith and unaware of whether the personal representative properly *exercised* its power. The difference is absolutely crucial. The public, by and through public records, is able to determine whether a person has the authority to deal on behalf of an estate. Northland and Appellants failed to do their due diligence regarding Jay Jaumotte’s authority, and no protection is offered by North Dakota law for such failure. Accordingly, Appellants are not bona fide purchasers pursuant to North Dakota law.

**IV. THE DISTRICT COURT DID NOT RELY ON CLEARLY ERRONEOUS FINDINGS OF FACT IN HOLDING NORTHLAND WAS NOT A GOOD FAITH PURCHASER OF THE SUBJECT MINERAL INTERESTS UNDER N.D.C.C. § 30.1-18-14.**

[¶ 49] By its brief, Appellants assert that the District Court made several findings of fact that were without any evidentiary support. The district court’s findings of fact can only be overturned if they are clearly erroneous. *See Krenz v. XTO Energy, Inc.*, 2017 ND 19, ¶ 18, 890 N.W.2d 222. “A finding of fact is clearly erroneous if it is induced by an erroneous view of the law, if there is no evidence to support it, or if, after reviewing all the evidence, [the court is] left with a definite and firm conviction a mistake has been made.” *Wenzel Estate v. Wenzel*, 2008 ND 68, ¶ 5, 747 N.W.2d 103. A court's choice between two permissible views of the weight of the evidence is not clearly erroneous, and simply because this court may have viewed the evidence differently does not entitle it to

reverse the district court. *Hogan v. Hogan*, 2003 ND 105, ¶ 6, 665 N.W.2d 672. On appeal, the court does not reweigh conflicts in the evidence as the district court's findings of fact are presumed correct. *Center Mut. Ins. Co. v. Thompson*, 2000 ND 192, ¶ 20, 618 N.W.2d 505. Rather, the court gives due regard to the district court's opportunity to judge the credibility of the witnesses. N.D.R.Civ.P. 52(a)(6).

[¶ 50] Appellants disingenuously parse words of the District Court or allege non-relevant, technical assertions that do not have any effect on the Conclusions of Law and ultimately holding made by the District Court. Moreover, Appellants misstate the Court's ruling by insinuating the Court is referring to other documents and/or proceedings than what is actually stated by the District Court. Here, in considering the parties' Motions for Summary Judgment, the District Court found Jay Jaumotte did not have authority in North Dakota to deal with the estates of Victoria Davis and Helen Jaumotte because Jay Jaumotte failed to file authenticated or certified copies of his appointment as personal representative with and obtain proper authority from the Court. *See App.*, 25-31. Now, Appellants attempt to twist the words of the District Court to state that the District Court was of the impression that Helen Jaumotte's probate matter occurred in Montana, and insinuate that the Court refers to the Will of Helen Jaumotte that was probated in Arizona in making its Conclusion of Law. In doing so, Appellants twist the words of the District Court's findings of fact. Throughout the course of this matter, the Court heard that Helen Jaumotte's estate was probated in Arizona; *however*, an ancillary probate occurred in Montana in order to deal with the minerals located in Montana. *Id.* The Will of Helen Jaumotte, of which Jay Jaumotte was the executor, was originally signed in Colorado. Proceedings were then filed in Montana in order to deal

with the minerals located in that state. *Id.* A copy of these proceedings certifying Jay Jaumotte as the estate's Personal Representative in Montana were then filed in Williams County, North Dakota; however, Jay Jaumotte failed to file these authenticated or certified copies of his appointment with the court of North Dakota in Williams County and obtain proper authority therefrom. *See id.* at 25-31, 121-26. Jay Jaumotte failed to obtain an Order from the Court establishing the filing of these copies pursuant to N.D.C.C. § 30.1-24-05. *Id.* The District Court then makes its Conclusion of Law establishing that Appellants were put on constructive and actual notice because if Appellants had checked the documents that were filed in Williams County, North Dakota, Appellants would have discovered that no order had been issued by a North Dakota Court establishing the filing of Jay Jaumotte's appointment as personal representative of the Estates of Victoria Davis or Helen Jaumotte in Montana. *Id.* Therefore, Appellants would have found Jay Jaumotte was not authorized to act as the personal representative of the either estate with regard to the North Dakota property and did not have the authority to issue the deeds. *Id.*

### **CONCLUSION**

[¶ 51] Based on the foregoing, the Court should affirm the District Court's Findings of Fact, Conclusions of Law, and Order for Judgment quieting title to the Subject Minerals to the Engel Appellees and finding EOG has a leasehold interest in the Subject Minerals.



Dated the 19<sup>th</sup> day of April, 2017

FREDRIKSON & BYRON, P.A.

By /s/Amy L. De Kok  
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# **ADDENDUM**

**IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

Dudley J. Stuber, Trustee of the D.J.	)	
Stuber Land and Royalty Trust and	)	
Rocky R. Svihl, Trustee of the RGKH	)	
Mineral & Royalty Trust, Dated 11-1-	)	
95,	)	
	)	
Plaintiffs and Appellants,	)	
	)	Supreme Court No. 20160391
vs.	)	
	)	
Douglas F. Engel, Nikki Engel, Robert	)	
Candee, Colleen Rae Baxter, Dirk	)	
Ronald Baxter, Frank A. Steinbeck,	)	
Margaret Steinbeck, Lillian Dasinger, as	)	
Trustee of the Lillian Dasinger Family	)	
Trust, Tracy Dawn Rude, and Jason	)	
Scott Hukill,	)	
	)	
Defendants and Appellees,	)	
	)	
and	)	
	)	
EOG Resources, Inc.,	)	
	)	
Intervenor and Appellee.	)	

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Appeal from Judgment Dated October 3, 2016  
Case No. 53-08-C-765  
County of Williams, Northwest Judicial District  
The Honorable Joshua B. Rustad, Presiding

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**BRIEF OF INTERVENOR/APPELLEE AND ADDENDUM  
EOG RESOURCES, INC.**

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**1-01-21. Good faith - Definition.**

Good faith shall consist in an honest intention to abstain from taking any unconscientious advantage of another even through the forms or technicalities of law, together with an absence of all information or belief of facts which would render the transaction unconscientious.

**1-01-25. What deemed constructive notice.**

Every person who has actual notice of circumstances sufficient to put a prudent person upon inquiry as to a particular fact and who omits to make such inquiry with reasonable diligence is deemed to have constructive notice of the fact itself.

**30.1-18-14. (3-714) Persons dealing with personal representative - Protection.**

A person who in good faith either assists a personal representative or deals with the personal representative for value is protected as if the personal representative properly exercised the personal representative's power. The fact that a person knowingly deals with a personal representative does not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except for restrictions on powers of supervised personal representatives which are endorsed on letters as provided in section 30.1-16-04, no provision in any will or order of court purporting to limit the power of a personal representative is effective except as to persons with actual knowledge thereof. A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is not in substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.

**30.1-24-05. (4-204) Proof of authority - Bond.**

If no local administration or application or petition for local administration is pending in this state, a domiciliary foreign personal representative may file with a court in this state, in a county in which property belonging to the decedent is located, authenticated or certified copies of the person's appointment and of any official bond the person has given, and the court shall enter an order establishing the filing of the copies.

**30.1-24-06. (4-205) Powers.**

A domiciliary foreign personal representative who has complied with section 30.1-24-05 may exercise, as to assets in this state, all powers of a local personal representative and may maintain actions and proceedings in this state subject to any conditions imposed upon nonresident parties generally.

**30.1-24-08. (4-207) Ancillary and other local administrations - Provisions governing.**  
In respect to a nonresident decedent, the provisions of chapters 30.1-12 through 30.1-23 of this title govern:

1. Proceedings, if any, in a court of this state for probate of the will, appointment, removal, supervision, and discharge of the local personal representative, and any other order concerning the estate.

2. The status, powers, duties, and liabilities of any local personal representative and the rights of claimants, purchasers, distributees, and others in regard to a local administration.

**IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

Dudley J. Stuber, Trustee of the D.J.	)	
Stuber Land and Royalty Trust and	)	
Rocky R. Svihl, Trustee of the RGKH	)	
Mineral & Royalty Trust, Dated 11-1-	)	
95,	)	
	)	
Plaintiffs and Appellants,	)	
	)	Supreme Court No. 20160391
vs.	)	
	)	
Douglas F. Engel, Nikki Engel, Robert	)	
Candee, Colleen Rae Baxter, Dirk	)	
Ronald Baxter, Frank A. Steinbeck,	)	
Margaret Steinbeck, Lillian Dasinger, as	)	
Trustee of the Lillian Dasinger Family	)	
Trust, Tracy Dawn Rude, and Jason	)	
Scott Hukill,	)	
	)	
Defendants and Appellees,	)	
	)	
and	)	
	)	
EOG Resources, Inc.,	)	
	)	
Intervenor and Appellee.	)	

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Appeal from Judgment Dated October 3, 2016  
Case No. 53-08-C-765  
County of Williams, Northwest Judicial District  
The Honorable Joshua B. Rustad, Presiding

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**CERTIFICATE OF SERVICE**

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I hereby certify that on April 19, 2017, I electronically filed with the Clerk of the North Dakota Supreme Court the following:

1. BRIEF OF INTERVENOR/APPELLEE EOG RESOURCES, INC.;
2. SUPPLEMENTAL APPENDIX OF INTERVENOR/APPELLEE EOG RESOURCES, INC.

and served the same electronically on the following:

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