

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

George Seccombe; Barbara Treska; )  
Erik Naasset; Helge Naasset; Astri )  
Holst; Irene Markle; and Alice Nasset, )

Plaintiffs and Appellants, )

Slawson Exploration Company, Inc.; )  
and Alameda Energy, Inc. )

Plaintiffs-Intervenors and Appellants, )

vs. )

Bradley C. Rohde and Karen D. Rohde, )  
Trustees of the Bradley C. Rohde Trust )  
dated June 22, 2010; Anita Rohde, )  
Trustee of the Anita Rohde Living )  
Trust UDT October 8, 2009; Dennis )  
Rohde, Trustee of the Dennis Rohde )  
Living Trust UDT October 8, 2009; )  
Gary Rohde; Bradley Rohde; Dennis )  
Rohde; Northern Oil and Gas, Inc.; )  
Ryan Family Mineral Partnership; S. )  
Reger Family Mineral Partnership; )  
Kootenai Resources Corporation; )  
Summerfield C. Baldrige; Montana )  
Oil Properties, Inc.; S. Reger Family, )  
Inc.; Beartooth Ridge Resources, Inc.; )  
Lakeside State Bank; and all persons )  
unknown claiming any estate or interest )  
in, or lien or encumbrance upon the )  
property described in the complaint, )

Defendants and Appellees. )

Supreme Court Case No. 20180069

Mountrail County Civil  
Case No. 31-2012-CV-00104

---

Appeal from Orders on Motions for Summary Judgment, entered March 26, 2013, and  
December 11, 2017, and Judgment entered January 17, 2018, by the District Court for the  
North Central Judicial District, County of Mountrail, Hon. Judge Gary H. Lee presiding

---

**BRIEF OF APPELLEE NORTHERN OIL AND GAS, INC.**

---

FREDRIKSON & BYRON, P.A.

Lawrence Bender, ND Bar #03908  
Danielle M. Krause, ND Bar #06874  
1133 College Drive, Suite 1000  
Bismarck, ND 58501  
Phone: (701) 221-8700  
lbender@fredlaw.com  
dkrause@fredlaw.com

*Attorneys for Defendant-Appellee Northern Oil and  
Gas, Inc.*

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
TABLE OF CONTENTS .....	i
	<b><u>Paragraph</u></b>
STATEMENT OF THE ISSUES .....	1
STATEMENT OF THE CASE .....	2
STATEMENT OF FACTS.....	3
STANDARD OF REVIEW.....	13
ARGUMENT .....	14
CONCLUSION .....	15

## **STATEMENT OF THE ISSUES**

[¶ 1] Northern Oil and Gas, Inc. (“Northern”) adopts the Statement of Issues set forth in the Brief of Appellees Bradley C. Rohde and Karen D. Rohde, Trustees of the Bradley C. Rohde Living Trust dated June 22, 2010, Anita Rohde, Trustee of the Anita Rohde Living Trust UDT October 8, 2009, Dennis Rohde, Trustee of the Dennis Rohde Living Trust UDT October 8, 2009, Gary Rohde, Bradley Rohde, and Dennis Rohde (hereinafter the “Rohde Appellees”) filed on June 12, 2018 (the “Rohde Appellees Brief”). *See* Rohde Appellees Brief ¶¶ 2-3.

## **STATEMENT OF THE CASE**

[¶ 2] Northern adopts the Statement of the Case set forth by the Rohde Appellees in the Rohde Appellees Brief. *See* Rohde Appellees Brief ¶ 5.

## **STATEMENT OF FACTS**

[¶ 3] Northern incorporates by reference the Statement of Facts set forth by the Rohde Appellees in the Rohde Brief, but sets forth the following additional information. *See* Rohde Appellees Brief ¶¶ 7-22.

[¶ 4] The Plaintiffs/Appellants, George Seccombe, Barbara Treska, Erik Naasset, Helge Naasset, Astri Holst, Irene Markle, and Alice Nasset (hereinafter collectively referred to as the “Nasset Heirs”) brought the instant action seeking to quiet title to the one half mineral interest in and under certain real property located in Mountrail County, North Dakota, described as follows:

Township 151 North, Range 92 West  
Section 5: SE/4  
Section 8: NE/4

(the “Subject Property”). The Nasset Heirs claim the one half mineral interest was reserved by the Estate of Olaf Nasset, following the sale of the Subject Property to Gilbert Rohde. *See generally* Complaint, Doc. ID# 1.

[¶ 5] On January 15, 1969, Gilbert Rohde conveyed the Subject Property to himself and Edith Rohde, as joint tenants (“Rohde Deed”). *See* Doc. ID# 97. The Rohde Deed was recorded with the Mountrail County Recorder at Book 393, Page 607. *See id.* On January 29, 1982, Gilbert Rohde and Edith Rohde conveyed the Subject Property to Gary Rohde, Dennis Rohde, and Bradley Rohde, as joint tenants, via Warranty Deed. *See* Doc. ID# 98. The Warranty Deed reserved all minerals in and under the Subject Property to Gilbert Rohde and Edith Rohde, and was recorded with the Mountrail County Recorder at Book 482, Page 677. *See id.*

[¶ 6] Gilbert Rohde died on February 6, 1996. Title to Gilbert Rohde’s one-half interest in the mineral estate in and under the Subject Property vested in Edith Rohde, as surviving joint tenant, by operation of law. *See* Doc. ID# 97.

[¶ 7] On September 4, 2007, Dennis Rohde, as Attorney-in-Fact for Edith Rohde, executed an oil and gas lease covering the interest of Edith Rohde in the minerals in and under the Subject Property in favor of Montana Oil Properties, Inc. (“Montana Oil”) (hereinafter referred to as the “Subject Lease”). *See* Doc. ID# 99. The Subject Lease was recorded with the Mountrail County Recorder as Document No. 332021. *See id.*

[¶ 8] On December 12, 2007, Montana Oil assigned 95% of its interest in the Subject Lease to Northern, reserving an overriding royalty interest equal to 3.8% (the

“Montana/Northern Assignment”). *See* Doc. ID# 100. Said Assignment was recorded with the Mountrail County Recorder as Document No. 335952. *See id.*

[¶ 9] On February 28, 2008, Montana Oil assigned 100% of its overriding royalty interest in the Subject Lease to the S. Reger Family Mineral Partnership, the Ryan Family Mineral Partnership, and Summerfield C. Baldrige, in equal proportions. *See* Doc. ID# 101. Said Assignment was recorded with the Mountrail County Recorder as Document No. 338175, in Book 801, page 379. *See id.*

[¶ 10] By Quit Claim Mineral Deed dated January 24, 2008, Dennis Rohde, as Attorney-in-Fact for Edith Rohde, conveyed the one-half mineral interest of Edith Rohde in the Subject Property to Dennis Rohde, Bradley Rohde, and Gary Rohde in equal shares. *See* Doc. ID# 102. Said Quit Claim Mineral Deed was recorded with the Mountrail County Recorder as Document No. 336420, at Book 804, page 24. *See id.*

[¶ 11] On October 8, 2009, Dennis Rohde and Anita Rohde, husband and wife, conveyed, by Warranty Deed, their interest in the mineral estate to the Subject Property to the Dennis Rohde Living Trust UDT October 8, 2009 and the Anita Rohde Living Trust UDT October 8, 2009. *See* Doc. ID# 103. Said Warranty Deed was recorded with the Mountrail County Recorder on October 22, 2009, as Document No. 360413. *Id.* On July 23, 2010, Bradley Rohde conveyed by Warranty Deed his interest in the mineral estate in and under the Subject Property to the Bradley C. Rohde Living Trust dated June 22, 2010. *See* Doc. ID# 104. Said Warranty Deed was recorded with the Mountrail County Recorder on July 27, 2010, as Document No. 370040. *Id.*

[¶ 12] On February 27, 2009, Montana Oil assigned its remaining interest in the Subject Lease to the S. Reger Family Mineral Partnership, the Ryan Family Mineral

Partnership, and Kootenai Resource Corporation, in equal proportions. *See* Doc. ID# 105. Said Assignment was recorded with the Mountrail County Recorder as Document No. 353681. *See id.* The S. Reger Family Mineral Partnership later assigned its interest to S. Reger Family, Inc., and the Ryan Family Mineral Partnership assigned its interest to Beartooth Ridge Resources, Inc. *See* Doc. ID# 240 and 241.

### **STANDARD OF REVIEW**

[¶ 13] Northern adopts the Standard of Review set forth in the Rohde Appellees Brief. *See* Rohde Appellees Brief ¶ 25.

### **ARGUMENT**

[¶ 14] Northern adopts the Arguments set forth by the Rohde Appellees in the Rohde Appellees Brief. *See* Rohde Appellees Brief ¶¶ 26-67. To emphasize, the District Court was correct in ruling that title to the minerals under the Subject Property should be quieted in the Rohde Appellees. As such, the leasehold interest owned by Northern is valid and in effect. The District Court's ruling is supported by a number of arguments made at the District Court level, as discussed in detail in the Brief of the Rohde Appellees, and should be affirmed.

### **CONCLUSION**

[¶ 15] For the reasons set forth above, Appellee Northern Oil and Gas, Inc. respectfully requests this Court affirm the decision of the District Court quieting title to the subject minerals in the Rohde Appellees, subject to the leasehold interest owned by Northern.

Dated this 12th day of June, 2018.

FREDRIKSON & BYRON, P.A.

By: /s/ Lawrence Bender  
LAWRENCE BENDER, ND Bar #03908  
DANIELLE M. KRAUSE, ND Bar #06874  
1133 College Drive, Suite 1000  
Bismarck, ND 58501-1215  
Telephone: 701.221.8700  
lbender@fredlaw.com  
dkrause@fredlaw.com

*Attorneys for Defendant-Appellee Northern  
Oil and Gas, Inc.*



**CERTIFICATE OF SERVICE**

I hereby certify that on June 12, 2018, I electronically filed with the Clerk of the North Dakota Supreme Court the foregoing document and served the same electronically upon the following:

Patrick W. Durick  
pwd@pearce-durick.com

Adam Olschlager  
aolschlager@crowleyfleck.com

Rachel A. Bruner  
rab@pearce-durick.com

Uriah J. Price  
uprice@crowleyfleck.com

Benjamin W. Keup  
bwk@pearce-durick.com

Griffin B. Stevens  
gstevens@crowleyfleck.com

Scott Knudsvig  
sknudsvig@pringlend.com

Michael W. Stefanowicz  
mstefanowicz@ohnstadlaw.com

Matthew H. Olson  
molson@pringlend.com

Robert G. Hoy  
rhoy@ohnstadlaw.com

Loren J. O'Toole  
otoole@otoolelawmt.com

Richard P. Olson  
rpolson@minotlaw.com

Wanda L. Fischer  
olsonpc@minotlaw.com

/s/ Lawrence Bender

Lawrence Bender