

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

Allen Dominek and Arlen Dominek,	)	
	)	
Plaintiffs/Appellants,	)	Supreme Court No.
	)	20220088
vs.	)	
	)	U.S. District Court No.
Equinor Energy L.P. f/k/a and a/k/a	)	1:19-cv-00288
Brigham Oil & Gas L.P. and Statoil Oil	)	
and Gas L.P., and Grayson Mill	)	
Williston, LLC	)	
	)	
Defendants/Appellees.	)	

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**EOG RESOURCES, INC.’S  
MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF  
PARTIALLY IN SUPPORT OF DEFENDANTS/APPELLEES AND  
PARTIALLY IN SUPPORT OF PLAINTIFFS/APPELLANTS**

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[¶1] EOG Resources, Inc. (“EOG”) moves the Court under N.D. R. App. Proc. 29 for leave to file as *Amicus Curiae* partially in support of Plaintiffs/Appellants Allen Dominek and Arlen Dominek (“Domineks”) and partially in support of Defendants/Appellees Equinor Energy L.P. f/k/a and a/k/a Brigham Oil & Gas L.P. and Statoil Oil and Gas L.P., and Grayson Mill Williston LLC, (“Equinor”). The motion is accompanied by a proposed brief. Capitalized terms that are used, but not defined herein have their meaning as set forth in the Motion for leave to file *amicus curiae* brief filed by Continental Resources, Inc. (“Continental Motion” and “Continental” respectively).

**1. Statement of EOG’s Interest**

[¶2] EOG is one of the largest crude oil producers in North Dakota, producing an average between 2015 and the current date of approximately 43,884 barrels of oil per day from hundreds of wells in multiple formations. EOG owns approximately 200,000 net acres

of oil and gas leasehold in North Dakota and plans to continue producing in North Dakota for the foreseeable future. EOG regularly utilizes Overlapping Units and section line wells to fully develop its leasehold. Many of EOG's section line wells are drilled in Overlapping Units that have noncontiguous boundaries with the Base Units, such as in the case at bar. EOG has distributed many millions of dollars of proceeds from such noncontiguous Overlapping Units, using an allocation method similar to the one endorsed by Domineks. The outcome of this case will have significant effects on EOG and its operations in the state. Additionally, EOG is representative of many operators in the state who allocate Overlapping Unit production according to the method endorsed by Domineks.

[¶3] In the event of a dispute about distribution of proceeds from Overlapping Units, EOG's first recourse is the North Dakota Industrial Commission ("NDIC"). Cases brought before the NDIC (including pooling cases) often involve highly technical geological and engineering considerations, which are best addressed by the NDIC, not this Court. Judicial, rather than NDIC, resolution of the issues central to this case will dramatically affect all disputes related to NDIC pooling orders. EOG's experiences and practices in resolving such disputes before the NDIC, as opposed to the courts, are valuable information for this Court to consider when determining whether to answer the certified questions.

[¶4] Currently, there is only one brief from an oil and gas operator (Continental) supporting the Domineks' allocation method. Conversely, the North Dakota Petroleum Council ("NDPC") has submitted an *amicus curiae* brief claiming that "industry practice" aligns with Equinor's allocation method. EOG's *amicus curiae* brief provides more data for this Court to consider when evaluating the accuracy of such statement. EOG's *amicus*

*curiae* brief should be accepted due to the considerable effects of this case on EOG, and EOG's experiences as a significant operator in the state.

## **2. Out of Time**

[¶5] The deadline for a party to file an *amicus curiae* brief in support of Domineks' position was May 24, 2022. The deadline for a party to file an *amicus curiae* brief in support of Equinor's position was July 22, 2022. EOG respectfully requests permission pursuant to N.D. R. App. Proc. 29(a)(6) for leave to file its proposed *amicus curiae* brief out of time, and in support of such request, states the following.

[¶6] EOG takes similar measures as discussed in the Continental Motion to keep itself apprised of important legal and policy matters in North Dakota. EOG echoes the statements in the Continental Motion that it did not receive information about the importance and potential impacts of this matter from the sources on which EOG normally relies. EOG only learned of the potential adverse impacts of this matter on July 29, 2022, after both deadlines had expired. Additionally, EOG had no knowledge that the NDPC would claim that standard industry practice aligns with Equinor, necessitating rebuttal from operators (like EOG) whose practices do not align with Equinor.

[¶7] Respectfully, EOG requests leave of this Court to file this Motion, and the proposed *amicus curiae* brief submitted herewith, out of time.

## **3. Desirability of *Amicus Curiae* Brief**

[¶8] EOG's proposed *amicus curiae* brief submitted with this motion provides this court with additional perspective from one of the state's top oil and gas producers. EOG's brief is limited to adopting the arguments set forth in the *amicus curiae* brief submitted by

Continental in this case, and is therefore succinct. In short, the brief is desirable because it is of limited length and will assist the Court's full understanding of the issues in this case.

#### **4. Conclusion**

[¶9] Based on the foregoing, EOG Resources, Inc. respectfully requests this Court grant leave for EOG to file its Brief as *Amicus Curiae* partially in support of Domineks and partially in support of Equinor.

Dated this 1st day of September, 2022.

By: /s/ James P. Parrot  
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and Gas L.P., and Grayson Mill	)	
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Defendants/Appellees.	)	

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**CERTIFICATE OF SERVICE**

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I hereby certify that on September 1, 2022, the following documents: EOG RESOURCES, INC.'S MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF PARTIALLY IN SUPPORT OF DEFENDANTS/APPELLEES AND PARTIALLY IN SUPPORT OF PLAINTIFFS/APPELLANTS was filed electronically with the Supreme Court through the E-Filing Portal which served copies by electronic mail upon all counsel of record as follows:

- Attorneys Defendants/Appellees:  
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