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**From:** Zachary E. Pelham <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>

**Sent:** Monday, January 6, 2025 2:39 PM

**To:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

[Warning: External Sender]

Thank you Steve and Randy for the edits you've provided.

Derrick and Lawrence...any edits?

Zack

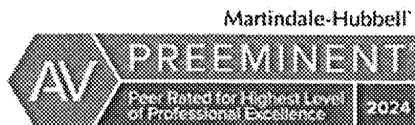
**Zachary Pelham | Attorney**

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**Exhibit 1**

**Case No.: 08-2024-CV-03622**  
**Part 2 of 3**

**From:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>

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**Subject:** Re: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Counsel,

Please be advised that Burleigh County agrees to the revised Stipulation provided by attorney Leibel. However, we have made one change to paragraph 4 of the proposed Stipulation. That change merely adds the civil numbers for the Burleigh County appeal and the Landowners appeal for clarity. A copy of the proposed revised Stipulation which is agreeable to Burleigh County is attached.

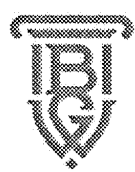
Kindly please advise whether the Stipulation is acceptable to all parties.

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



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Grinolds  
Wiederholt**  
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I would like to get the stipulation and our individual motions filed in the next few days so we can work to resolve the issues with the record, etc. Please let me know if anyone has any comments.

I hope everyone had a safe and enjoyable holiday.

Steve



Steven J. Leibel, Partner  
PO Box 858 · 1915 N. Kavaney Drive, Suite 3  
Bismarck, ND 58502-0858  
Phone 701-255-2010 · Fax 701-255-1980  
Email [steve@bismarck-attorneys.com](mailto:steve@bismarck-attorneys.com)  
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**From:** Zachary E. Pelham <zep@pearce-durick.com>

**Sent:** Tuesday, December 31, 2024 11:42 AM

**To:** Derrick Braaten <derrick@braatenlawfirm.com>; Lawrence Bender <LBender@fredlaw.com>; Randall Bakke <rbakke@bgwattorneys.com>; Steve Leibel <Steve@Bismarck-attorneys.com>

**Cc:** John M. Schuh <jschuh@nd.gov>; David Knoll <David@Bismarck-attorneys.com>; Tyler Gludt <TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>

**Subject:** PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Good morning:

Attached is a draft stipulation to consolidate the appeals into the appeal before Judge Nesvig. Please let me know if I can insert your e-signature for filing.

Thank you and Happy New Year!

Zack

**Zachary Pelham | Attorney**

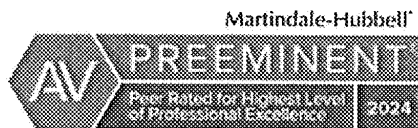
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## Rosanne Ogden

---

**From:** Desirae Zaste <desirae@braatenlawfirm.com>  
**Sent:** Tuesday, January 7, 2025 3:39 PM  
**To:** Randall Bakke; 'Zachary E. Pelham'; Derrick Braaten; Steve Leibel; Lawrence Bender  
**Cc:** John M. Schuh; David Knoll; Tyler Gludt; Brian Jorde; Rosanne Ogden  
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate  
**Attachments:** 010625 Stipulation to Consolidate-db.docx

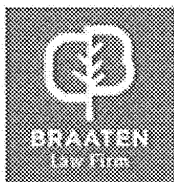
[WARNING: MESSAGE WAS SENT FROM OUTSIDE YOUR ORGANIZATION. Please verify identity of sender before following links or replying]

Good afternoon,

Attached is the stipulation with revisions. Thank you.

**Desirae Zaste**

**Litigation Manager/Certified Paralegal**



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**Cc:** John M. Schuh <jschuh@nd.gov>; David Knoll <david@bismarck-attorneys.com>; Tyler Gludt <TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>; Desirae Zaste <desirae@braatenlawfirm.com>  
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

[Warning: External Sender]

**Derrick:**

I agree to your requested changes to the Stipulation.

*Randall J. Bakke*

Certified Civil Trial Specialist – National Board of Trial Advocacy  
Fellow-Litigation Counsel of America  
Board Certified Civil Practice Advocacy



**Bakke  
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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Thank you Derrick.

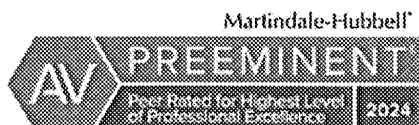
I do not have any issue with this.

Zack

**Zachary Pelham | Attorney**

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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Yes sorry, Steve reminded me that we also filed an additional appeal after the final decision, in addition to the previously filed appeal into which we are consolidating. So we need to add the additional appeal filed by Emmons, and I also noticed now that this is consolidating into the newer Emmons action, and should consolidate into the older Emmons action so that all the recent actions get consolidated into the original.

0624 is the original case.

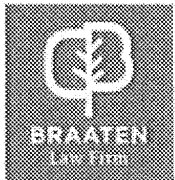
3610 is the second Emmons case.

So we should add 3610 as one of the cases being consolidated, and the stip should be filed in 0624, and then similar stips and motions filed in the other cases by each of us as Steve suggested.

Let me know if this makes sense and I can circulate a redline, but wanted to ensure we are on the same page before I do that. Please also copy Desirae Zaste, my litigation manager, on these emails.

Thank you,  
Derrick

**Derrick Braaten**



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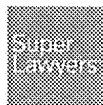
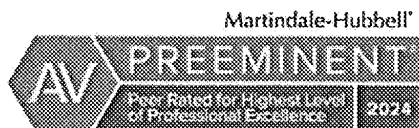
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Steve



Steven J. Leibel, Partner  
PO Box 858 · 1915 N. Kavaney Drive, Suite 3  
Bismarck, ND 58502-0858  
Phone 701-255-2010 · Fax 701-255-1980  
Email [steve@bismarck-attorneys.com](mailto:steve@bismarck-attorneys.com)  
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Thank you and Happy New Year!

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Zachary Pelham | Attorney

# Pearce Durick PLLC

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## Rosanne Ogden

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**From:** Desirae Zaste <desirae@braatenlawfirm.com>  
**Sent:** Thursday, January 9, 2025 8:57 AM  
**To:** Randall Bakke; 'Zachary E. Pelham'; Derrick Braaten; Steve Leibel; Lawrence Bender  
**Cc:** John M. Schuh; David Knoll; Tyler Gludt; Brian Jorde; Rosanne Ogden  
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate  
**Attachments:** 010625 Stipulation to Consolidate-db.docx

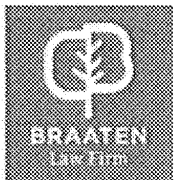
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Good morning,

Attached is a revised version of the stipulation.

**Desirae Zaste**

**Litigation Manager/Certified Paralegal**



**BRAATEN LAW FIRM**  
109 N. 4th Street, Suite 100  
Bismarck, ND 58501  
Phone: 701-221-2911  
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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Derrick:

Just one comment and requested edit. Shouldn't paragraph 4 indicate that appellants will file a copy of the Consolidation Stipulation in all three of the



other pending actions in Burleigh County and reference the civil numbers for all three civil numbers for those cases?

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



**Bakke  
Grinolds  
Wiederholt**  
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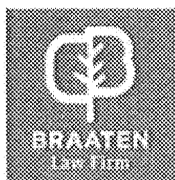
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Good afternoon,

Attached is the stipulation with revisions. Thank you.

**Desirae Zaste**

**Litigation Manager/Certified Paralegal**



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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Derrick:

I agree to your requested changes to the Stipulation.

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



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**From:** Zachary E. Pelham <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>

**Sent:** Monday, January 6, 2025 3:26 PM

**To:** Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

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<TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>;  
Desirae Zaste <desirae@braatenlawfirm.com>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Thank you Derrick.

I do not have any issue with this.

Zack

**Zachary Pelham | Attorney**

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**Sent:** Monday, January 6, 2025 3:14 PM

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**Cc:** John M. Schuh <jschuh@nd.gov>; David Knoll <david@bismarck-attorneys.com>; Tyler Gludt <TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>; Desirae Zaste <desirae@braatenlawfirm.com>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Yes sorry, Steve reminded me that we also filed an additional appeal after the final decision, in addition to the previously filed appeal into which we are consolidating. So we need to add the additional appeal filed by Emmons, and I also noticed now that this is consolidating into the newer Emmons action, and should consolidate into the older Emmons action so that all the recent actions get consolidated into the original.

0624 is the original case.

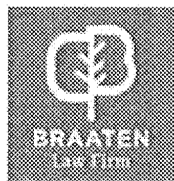
3610 is the second Emmons case.

So we should add 3610 as one of the cases being consolidated, and the stip should be filed in 0624, and then similar stipulations and motions filed in the other cases by each of us as Steve suggested.

Let me know if this makes sense and I can circulate a redline, but wanted to ensure we are on the same page before I do that. Please also copy Desirae Zaste, my litigation manager, on these emails.

Thank you,  
Derrick

## Derrick Braaten



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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Thank you Steve and Randy for the edits you've provided.

Derrick and Lawrence...any edits?

Zack

**Zachary Pelham | Attorney**

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**Subject:** Re: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Counsel,

Please be advised that Burleigh County agrees to the revised Stipulation provided by attorney Leibel. However, we have made one change to paragraph 4 of the proposed Stipulation. That change merely adds the civil numbers for the Burleigh County appeal and the Landowners appeal for clarity. A copy of the proposed revised Stipulation which is agreeable to Burleigh County is attached.

Kindly please advise whether the Stipulation is acceptable to all parties.

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

All,

Attached are my revisions to the stipulation. My revisions address two issues. First, I think we should make sure that the stipulation is clear that we are consolidating into Judge Nesvig's case. Second, I believe the stipulation should say that Appellants' attorneys (Randy and I) will be filing the stipulations in our individual appeals to request consolidation in those cases too. This is done to avoid a potential procedural issue that I have run into before when trying to consolidate multiple cases into one.

I would like to get the stipulation and our individual motions filed in the next few days so we can work to resolve the issues with the record, etc. Please let me know if anyone has any comments.

I hope everyone had a safe and enjoyable holiday.

Steve



Steven J. Leibel, Partner  
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Phone 701-255-2010 · Fax 701-255-1980  
Email [steve@bismarck-attorneys.com](mailto:steve@bismarck-attorneys.com)  
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**From:** Zachary E. Pelham <zep@pearce-durick.com>

**Sent:** Tuesday, December 31, 2024 11:42 AM

**To:** Derrick Braaten <derrick@braatenlawfirm.com>; Lawrence Bender <LBender@fredlaw.com>; Randall Bakke <rbakke@bgwattorneys.com>; Steve Leibel <Steve@Bismarck-attorneys.com>

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**Subject:** PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Good morning:

Attached is a draft stipulation to consolidate the appeals into the appeal before Judge Nesvig. Please let me know if I can insert your e-signature for filing.

Thank you and Happy New Year!

Zack

**Zachary Pelham | Attorney**

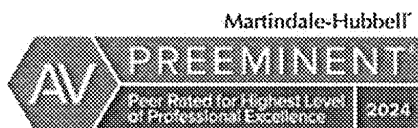
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## Rosanne Ogden

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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate  
**Attachments:** 010925 Stipulation to Consolidate-SJL1.docx; Order of Consolidation.docx

Attached is a revised draft. My change was to clarify in the second paragraph that there are a total of four appeals, not three. I think that language was a remnant of the first draft of the stipulation. With this minor modification, you have my approval to indicate my signature.

I have also attached a draft order to submit with the stipulation.

Steve



Steven J. Leibel, Partner  
PO Box 858 · 1915 N. Kavaney Drive, Suite 3  
Bismarck, ND 58502-0858  
Phone 701-255-2010 · Fax 701-255-1980  
Email [steve@bismarck-attorneys.com](mailto:steve@bismarck-attorneys.com)  
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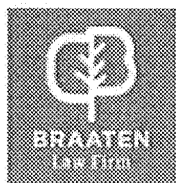
Good morning,

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**Sent:** Wednesday, January 8, 2025 10:12 AM

**To:** Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

**Cc:** John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[david@bismarck-attorneys.com](mailto:david@bismarck-attorneys.com)>; Tyler Gludt <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Derrick:

Just one comment and requested edit. Shouldn't paragraph 4 indicate that appellants will file a copy of the Consolidation Stipulation in all three of the other pending actions in Burleigh County and reference the civil numbers for all three civil numbers for those cases?

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



**Bakke  
Grinolds  
Wiederholt**  
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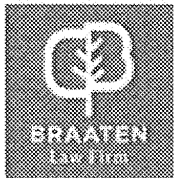
**From:** Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>  
**Sent:** Tuesday, January 7, 2025 3:39 PM  
**To:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>  
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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Good afternoon,

Attached is the stipulation with revisions. Thank you.

**Desirae Zaste**

**Litigation Manager/Certified Paralegal**



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**Sent:** Tuesday, January 7, 2025 1:40 PM  
**To:** 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>  
**Cc:** John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[david@bismarck-attorneys.com](mailto:david@bismarck-attorneys.com)>; Tyler Gludt <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>; Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>  
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Derrick:

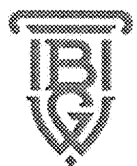
I agree to your requested changes to the Stipulation.

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



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**Sent:** Monday, January 6, 2025 3:26 PM

**To:** Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Thank you Derrick.

I do not have any issue with this.

Zack

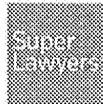
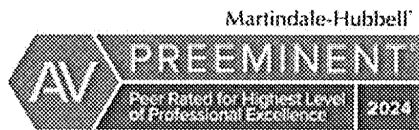
**Zachary Pelham | Attorney**

**Pearce Durick** PLLC

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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Yes sorry, Steve reminded me that we also filed an additional appeal after the final decision, in additional to the previously filed appeal into which we are consolidating. So we need to add the additional appeal filed by Emmons, and I also noticed now that this is consolidating into the newer Emmons action, and should consolidate into the older Emmons action so that all the recent actions get consolidated into the original.

0624 is the original case.

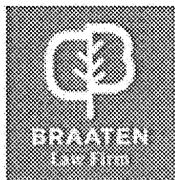
3610 is the second Emmons case.

So we should add 3610 as one of the cases being consolidated, and the stip should be filed in 0624, and then similar stips and motions filed in the other cases by each of us as Steve suggested.

Let me know if this makes sense and I can circulate a redline, but wanted to ensure we are on the same page before I do that. Please also copy Desirae Zaste, my litigation manager, on these emails.

Thank you,  
Derrick

**Derrick Braaten**



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**Sent:** Monday, January 6, 2025 2:39 PM

**To:** Randall Bakke <rbakke@bgwattorneys.com>; Steve Leibel <Steve@Bismarck-attorneys.com>; Derrick Braaten <derrick@braatenlawfirm.com>; Lawrence Bender <LBender@fredlaw.com>

**Cc:** John M. Schuh <jschuh@nd.gov>; David Knoll <david@bismarck-attorneys.com>; Tyler Gludt <TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Thank you Steve and Randy for the edits you've provided.

Derrick and Lawrence...any edits?

Zack

**Zachary Pelham | Attorney**

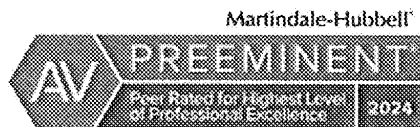
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**Subject:** Re: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Counsel,

Please be advised that Burleigh County agrees to the revised Stipulation provided by attorney Leibel. However, we have made one change to paragraph 4 of the proposed Stipulation. That change merely adds the civil numbers for the Burleigh County appeal and the Landowners appeal for clarity. A copy of

the proposed revised Stipulation which is agreeable to Burleigh County is attached.

Kindly please advise whether the Stipulation is acceptable to all parties.

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



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**From:** Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>

**Sent:** Monday, January 6, 2025 9:51 AM

**To:** Zachary E. Pelham <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Lawrence Bender

<LBender@fredlaw.com>; Randall Bakke <rbakke@bgwattorneys.com>  
Cc: John M. Schuh <jschuh@nd.gov>; David Knoll <David@Bismarck-attorneys.com>; Tyler Gludt  
<TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>  
Subject: RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

All,

Attached are my revisions to the stipulation. My revisions address two issues. First, I think we should make sure that the stipulation is clear that we are consolidating into Judge Nesvig's case. Second, I believe the stipulation should say that Appellants' attorneys (Randy and I) will be filing the stipulations in our individual appeals to request consolidation in those cases too. This is done to avoid a potential procedural issue that I have run into before when trying to consolidate multiple cases into one.

I would like to get the stipulation and our individual motions filed in the next few days so we can work to resolve the issues with the record, etc. Please let me know if anyone has any comments.

I hope everyone had a safe and enjoyable holiday.

Steve



Steven J. Leibel, Partner  
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Bismarck, ND 58502-0858  
Phone 701-255-2010 - Fax 701-255-1980  
Email [steve@bismarck-attorneys.com](mailto:steve@bismarck-attorneys.com)  
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Cc: John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[David@Bismarck-attorneys.com](mailto:David@Bismarck-attorneys.com)>; Tyler Gludt <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>  
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Good morning:

Attached is a draft stipulation to consolidate the appeals into the appeal before Judge Nesvig. Please let me know if I can insert your e-signature for filing.

Thank you and Happy New Year!  
Zack

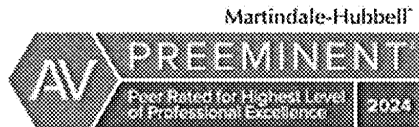
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## Rosanne Ogden

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**To:** Steve Leibel; Desirae Zaste; Randall Bakke; 'Zachary E. Pelham'; Lawrence Bender  
**Cc:** John M. Schuh; David Knoll; Tyler Gludt; Brian Jorde; Rosanne Ogden  
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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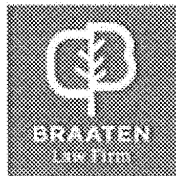
This looks good to me. We will file this into our original case with the proposed order and a motion to consolidate from Emmons County. I plan to file it tomorrow at noon. If anyone has any other issues please let me know before then, otherwise I will assume you have agreed to sign the stipulation as circulated by Steve below and append your electronic signature and file, and then we can all file in to our individual actions (Lawrence/Zack: I will file into the original Emmons appeal).

Thanks everyone.

Derrick

### Derrick Braaten

---



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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Attached is a revised draft. My change was to clarify in the second paragraph that there are a total of four appeals, not three. I think that language was a remnant of the first draft of the stipulation. With this minor modification, you have my approval to indicate my signature.

I have also attached a draft order to submit with the stipulation.

Steve



Steven J. Leibel, Partner  
PO Box 858 · 1915 N. Kavaney Drive, Suite 3  
Bismarck, ND 58502-0858  
Phone 701-255-2010 · Fax 701-255-1980  
Email [steve@bismarck-attorneys.com](mailto:steve@bismarck-attorneys.com)  
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**To:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

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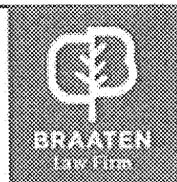
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Good morning,

Attached is a revised version of the stipulation.

**Desirae Zaste**

**Litigation Manager/Certified Paralegal**



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**From:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>

**Sent:** Wednesday, January 8, 2025 10:12 AM

**To:** Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

**Cc:** John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[david@bismarck-attorneys.com](mailto:david@bismarck-attorneys.com)>; Tyler Gludt <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

[Warning: External Sender]

Derrick:

Just one comment and requested edit. Shouldn't paragraph 4 indicate that appellants will file a copy of the Consolidation Stipulation in all three of the other pending actions in Burleigh County and reference the civil numbers for all three civil numbers for those cases?

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



**Bakke  
Grinolds  
Wiederholt**  
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**From:** Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>

**Sent:** Tuesday, January 7, 2025 3:39 PM

**To:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

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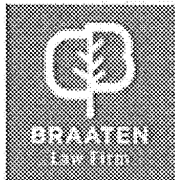
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Good afternoon,

Attached is the stipulation with revisions. Thank you.

**Desirae Zaste**

**Litigation Manager/Certified Paralegal**



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**From:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>

**Sent:** Tuesday, January 7, 2025 1:40 PM

**To:** 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

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<[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>;

Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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**Derrick:**

I agree to your requested changes to the Stipulation.

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*



**Bakke  
Grinolds  
Wiederholt**  
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**From:** Zachary E. Pelham <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>

**Sent:** Monday, January 6, 2025 3:26 PM

**To:** Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Thank you Derrick.

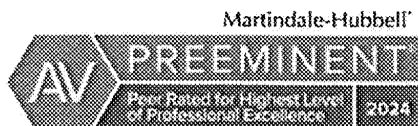
I do not have any issue with this.

Zack

**Zachary Pelham | Attorney**

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**Sent:** Monday, January 6, 2025 3:14 PM

**To:** Zachary E. Pelham <zep@pearce-durick.com>; Randall Bakke <rbakke@bgwattorneys.com>; Steve Leibel <Steve@Bismarck-attorneys.com>; Lawrence Bender <LBender@fredlaw.com>

**Cc:** John M. Schuh <jschuh@nd.gov>; David Knoll <david@bismarck-attorneys.com>; Tyler Gludt <TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>; Desirae Zaste <desirae@braatenlawfirm.com>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Yes sorry, Steve reminded me that we also filed an additional appeal after the final decision, in additional to the previously filed appeal into which we are consolidating. So we need to add the additional appeal filed by Emmons, and I also noticed now that this is consolidating into the newer Emmons action, and should consolidate into the older Emmons action so that all the recent actions get consolidated into the original.

0624 is the original case.

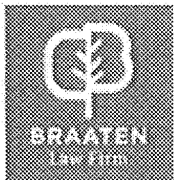
3610 is the second Emmons case.

So we should add 3610 as one of the cases being consolidated, and the stip should be filed in 0624, and then similar stips and motions filed in the other cases by each of us as Steve suggested.

Let me know if this makes sense and I can circulate a redline, but wanted to ensure we are on the same page before I do that. Please also copy Desirae Zaste, my litigation manager, on these emails.

Thank you,  
Derrick

**Derrick Braaten**



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**From:** Zachary E. Pelham <zep@pearce-durick.com>

**Sent:** Monday, January 6, 2025 2:39 PM

**To:** Randall Bakke <rbakke@bgwattorneys.com>; Steve Leibel <Steve@Bismarck-attorneys.com>; Derrick Braaten <derrick@braatenlawfirm.com>; Lawrence Bender <LBender@fredlaw.com>

**Cc:** John M. Schuh <jschuh@nd.gov>; David Knoll <david@bismarck-attorneys.com>; Tyler Gludt <TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Thank you Steve and Randy for the edits you've provided.

Derrick and Lawrence...any edits?

Zack

**Zachary Pelham | Attorney**

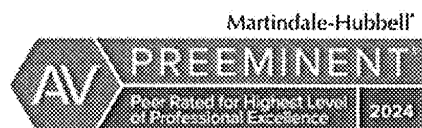
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**Sent:** Monday, January 6, 2025 1:50 PM

**To:** Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Zachary E. Pelham <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

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**Subject:** Re: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Counsel,

Please be advised that Burleigh County agrees to the revised Stipulation provided by attorney Leibel. However, we have made one change to paragraph 4 of the proposed Stipulation. That change merely adds the civil numbers for the Burleigh County appeal and the Landowners appeal for clarity. A copy of the proposed revised Stipulation which is agreeable to Burleigh County is attached.

Kindly please advise whether the Stipulation is acceptable to all parties.

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



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**From:** Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>

**Sent:** Monday, January 6, 2025 9:51 AM

**To:** Zachary E. Pelham <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>

**Cc:** John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[David@Bismarck-attorneys.com](mailto:David@Bismarck-attorneys.com)>; Tyler Gludt

<[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

All,



Attached are my revisions to the stipulation. My revisions address two issues. First, I think we should make sure that the stipulation is clear that we are consolidating into Judge Nesvig's case. Second, I believe the stipulation should say that Appellants' attorneys (Randy and I) will be filing the stipulations in our individual appeals to request consolidation in those cases too. This is done to avoid a potential procedural issue that I have run into before when trying to consolidate multiple cases into one.

I would like to get the stipulation and our individual motions filed in the next few days so we can work to resolve the issues with the record, etc. Please let me know if anyone has any comments.

I hope everyone had a safe and enjoyable holiday.

Steve



Steven J. Leibel, Partner  
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**From:** Zachary E. Pelham <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>

**Sent:** Tuesday, December 31, 2024 11:42 AM

**To:** Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>

**Cc:** John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[David@Bismarck-attorneys.com](mailto:David@Bismarck-attorneys.com)>; Tyler Gludt <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

**Subject:** PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Good morning:

Attached is a draft stipulation to consolidate the appeals into the appeal before Judge Nesvig. Please let me know if I can insert your e-signature for filing.

Thank you and Happy New Year!

Zack

Zachary Pelham | Attorney

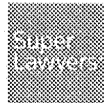
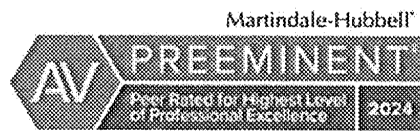
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## Rosanne Ogden

**From:** Bender, Lawrence <LBender@fredlaw.com>  
**Sent:** Thursday, January 9, 2025 3:01 PM  
**To:** Derrick Braaten  
**Cc:** John M. Schuh; David Knoll; Gludt, Tyler; Brian Jorde; Rosanne Ogden; Bender, Lawrence; 'Zachary E. Pelham'; Randall Bakke; Desirae Zaste; Steve Leibel  
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Derick:

At this time, I do not have authorization to agree to the stipulation nor do you have my permission to file the stipulation including my e-signature or in any way representing to the Court that I, on behalf of Summit agree to the consolidation.

STAFF BIOGRAPHIES PRACTICE AREAS CONTACT US

**Fredrikson**

Main - 701-221-8700

Lawrence Bender  
Attorney

[lbender@fredlaw.com](mailto:lbender@fredlaw.com)

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**From:** Derrick Braaten <derrick@braatenlawfirm.com>  
**Sent:** Thursday, January 9, 2025 2:49 PM  
**To:** Steve Leibel <Steve@Bismarck-attorneys.com>; Desirae Zaste <desirae@braatenlawfirm.com>; Randall Bakke <rbakke@bgwattorneys.com>; 'Zachary E. Pelham' <zep@pearce-durick.com>; Bender, Lawrence <LBender@fredlaw.com>  
**Cc:** John M. Schuh <jschuh@nd.gov>; David Knoll <David@Bismarck-attorneys.com>; Gludt, Tyler <TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>  
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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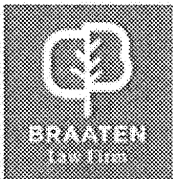
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This looks good to me. We will file this into our original case with the proposed order and a motion to consolidate from Emmons County. I plan to file it tomorrow at noon. If anyone has any other issues please let me know before then, otherwise I will assume you have agreed to sign the stipulation as circulated by Steve below and append your electronic signature and file, and then we can all file in to our individual actions (Lawrence/Zack: I will file into the original Emmons appeal).

Thanks everyone.

Derrick

**Derrick Braaten**



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**From:** Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>

**Sent:** Thursday, January 9, 2025 12:36 PM

**To:** Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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[Warning: External Sender]

Attached is a revised draft. My change was to clarify in the second paragraph that there are a total of four appeals, not three. I think that language was a remnant of the first draft of the stipulation. With this minor modification, you have my approval to indicate my signature.

I have also attached a draft order to submit with the stipulation.

Steve

Steven J. Leibel, Partner  
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Bismarck, ND 58502-0858  
Phone 701-255-2010 · Fax 701-255-1980  
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**Sent:** Thursday, January 9, 2025 8:57 AM

**To:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

**Cc:** John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[David@Bismarck-attorneys.com](mailto:David@Bismarck-attorneys.com)>; Tyler Gludt <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

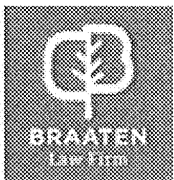
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Good morning,

Attached is a revised version of the stipulation.

**Desirae Zaste**

**Litigation Manager/Certified Paralegal**



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From: Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>

Sent: Wednesday, January 8, 2025 10:12 AM

To: Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

Cc: John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[david@bismarck-attorneys.com](mailto:david@bismarck-attorneys.com)>; Tyler Gludt

<[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

Subject: RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Derrick:

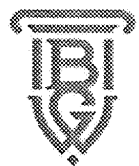
Just one comment and requested edit. Shouldn't paragraph 4 indicate that appellants will file a copy of the Consolidation Stipulation in all three of the other pending actions in Burleigh County and reference the civil numbers for all three civil numbers for those cases?

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



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To: Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

Cc: John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[david@bismarck-attorneys.com](mailto:david@bismarck-attorneys.com)>; Tyler Gludt

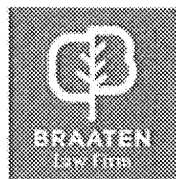
<TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>  
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Good afternoon,

Attached is the stipulation with revisions. Thank you.

**Desirae Zaste**

**Litigation Manager/Certified Paralegal**



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**Sent:** Tuesday, January 7, 2025 1:40 PM

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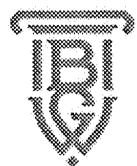
I agree to your requested changes to the Stipulation.

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



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Grinolds  
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**Sent:** Monday, January 6, 2025 3:26 PM  
**To:** Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>  
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**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Thank you Derrick.

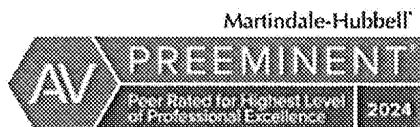
I do not have any issue with this.

Zack

**Zachary Pelham | Attorney**

Pearce Durick PLLC

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Bismarck, ND 58502  
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**To:** Zachary E. Pelham <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>  
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<TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>; Desirae Zaste <desirae@braatenlawfirm.com>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Yes sorry, Steve reminded me that we also filed an additional appeal after the final decision, in addition to the previously filed appeal into which we are consolidating. So we need to add the additional appeal filed by Emmons, and I also noticed now that this is consolidating into the newer Emmons action, and should consolidate into the older Emmons action so that all the recent actions get consolidated into the original.

0624 is the original case.

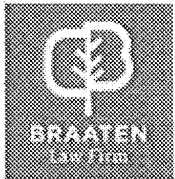
3610 is the second Emmons case.

So we should add 3610 as one of the cases being consolidated, and the stip should be filed in 0624, and then similar stips and motions filed in the other cases by each of us as Steve suggested.

Let me know if this makes sense and I can circulate a redline, but wanted to ensure we are on the same page before I do that. Please also copy Desirae Zaste, my litigation manager, on these emails.

Thank you,  
Derrick

**Derrick Braaten**



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**Sent:** Monday, January 6, 2025 2:39 PM

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**Cc:** John M. Schuh <jschuh@nd.gov>; David Knoll <david@bismarck-attorneys.com>; Tyler Gludt <TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Thank you Steve and Randy for the edits you've provided.

Derrick and Lawrence...any edits?

Zack

**Zachary Pelham | Attorney**

Pearce Durick PLLC

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Bismarck, ND 58502

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**Sent:** Monday, January 6, 2025 1:50 PM

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**Subject:** Re: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Counsel,

Please be advised that Burleigh County agrees to the revised Stipulation provided by attorney Leibel. However, we have made one change to paragraph 4 of the proposed Stipulation. That change merely adds the civil numbers for the Burleigh County appeal and the Landowners appeal for clarity. A copy of the proposed revised Stipulation which is agreeable to Burleigh County is attached.

Kindly please advise whether the Stipulation is acceptable to all parties.

*Randall J. Bakke*

*Certified Civil Trial Specialist – National Board of Trial Advocacy*

*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



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**From:** Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>

**Sent:** Monday, January 6, 2025 9:51 AM

**To:** Zachary E. Pelham <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>

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<[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

All,

Attached are my revisions to the stipulation. My revisions address two issues. First, I think we should make sure that the stipulation is clear that we are consolidating into Judge Nesvig's case. Second, I believe the stipulation should say that Appellants' attorneys (Randy and I) will be filing the stipulations in our individual appeals to request consolidation in those cases too. This is done to avoid a potential procedural issue that I have run into before when trying to consolidate multiple cases into one.

I would like to get the stipulation and our individual motions filed in the next few days so we can work to resolve the issues with the record, etc. Please let me know if anyone has any comments.

I hope everyone had a safe and enjoyable holiday.

Steve



Steven J. Leibel, Partner  
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**Sent:** Tuesday, December 31, 2024 11:42 AM

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**Subject:** PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Good morning:

Attached is a draft stipulation to consolidate the appeals into the appeal before Judge Nesvig. Please let me know if I can insert your e-signature for filing.

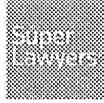
Thank you and Happy New Year!

Zack

**Zachary Pelham | Attorney**

**Pearce Durick** PLLC

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## Rosanne Ogden

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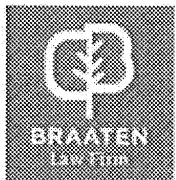
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**Sent:** Thursday, January 9, 2025 3:10 PM  
**To:** Bender, Lawrence  
**Cc:** John M. Schuh; David Knoll; Gludt, Tyler; Brian Jorde; Rosanne Ogden; 'Zachary E. Pelham'; Randall Bakke; Desirae Zaste; Steve Leibel  
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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**From:** Bender, Lawrence <LBender@fredlaw.com>  
**Sent:** Thursday, January 9, 2025 3:01 PM  
**To:** Derrick Braaten <derrick@braatenlawfirm.com>  
**Cc:** John M. Schuh <jschuh@nd.gov>; David Knoll <David@Bismarck-attorneys.com>; Gludt, Tyler <TGludt@fredlaw.com>; Brian Jorde <BJorde@dominalaw.com>; Rosanne Ogden <Rosanne@Bismarck-attorneys.com>; Bender, Lawrence <LBender@fredlaw.com>; 'Zachary E. Pelham' <zep@pearce-durick.com>; Randall Bakke <rbakke@bgwattorneys.com>; Desirae Zaste <desirae@braatenlawfirm.com>; Steve Leibel <Steve@Bismarck-attorneys.com>  
**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

[Warning: External Sender]

Derick:

At this time, I do not have authorization to agree to the stipulation nor do you have my permission to file the stipulation including my e-signature or in any way representing to the Court that I, on behalf of Summit agree to the consolidation.

## Fredrikson

Main - 701-221-8700

Lawrence Bender  
Attorney

[lbender@fredlaw.com](mailto:lbender@fredlaw.com)

Fredrikson & Byron, P.A.  
304 East Front Avenue  
Suite 400  
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**From:** Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>

**Sent:** Thursday, January 9, 2025 2:49 PM

**To:** Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Bender, Lawrence <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

**Cc:** John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[David@Bismarck-attorneys.com](mailto:David@Bismarck-attorneys.com)>; Gludt, Tyler <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

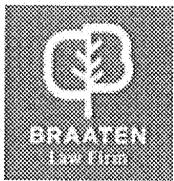
### CAUTION: EXTERNAL E-MAIL

This looks good to me. We will file this into our original case with the proposed order and a motion to consolidate from Emmons County. I plan to file it tomorrow at noon. If anyone has any other issues please let me know before then, otherwise I will assume you have agreed to sign the stipulation as circulated by Steve below and append your electronic signature and file, and then we can all file in to our individual actions (Lawrence/Zack: I will file into the original Emmons appeal).

Thanks everyone.

Derrick

**Derrick Braaten**



**Braaten Law Firm**  
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**From:** Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>

**Sent:** Thursday, January 9, 2025 12:36 PM

**To:** Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>; Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

**Cc:** John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[David@Bismarck-attorneys.com](mailto:David@Bismarck-attorneys.com)>; Tyler Gludt <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Attached is a revised draft. My change was to clarify in the second paragraph that there are a total of four appeals, not three. I think that language was a remnant of the first draft of the stipulation. With this minor modification, you have my approval to indicate my signature.

I have also attached a draft order to submit with the stipulation.

Steve



Steven J. Leibel, Partner  
PO Box 858 · 1915 N. Kavaney Drive, Suite 3  
Bismarck, ND 58502-0858  
Phone 701-255-2010 · Fax 701-255-1980  
Email [steve@bismarck-attorneys.com](mailto:steve@bismarck-attorneys.com)  
[www.bismarck-attorneys.com](http://www.bismarck-attorneys.com)

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**From:** Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>

**Sent:** Thursday, January 9, 2025 8:57 AM

**To:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

**Cc:** John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[David@Bismarck-attorneys.com](mailto:David@Bismarck-attorneys.com)>; Tyler Gludt <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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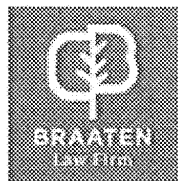
[WARNING: MESSAGE WAS SENT FROM OUTSIDE YOUR ORGANIZATION. Please verify identity of sender before following links or replying]

Good morning,

Attached is a revised version of the stipulation.

**Desirae Zaste**

**Litigation Manager/Certified Paralegal**



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**From:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>

**Sent:** Wednesday, January 8, 2025 10:12 AM

**To:** Desirae Zaste <[desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com)>; 'Zachary E. Pelham' <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Derrick Braaten <[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; Lawrence Bender <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>

**Cc:** John M. Schuh <[jschuh@nd.gov](mailto:jschuh@nd.gov)>; David Knoll <[david@bismarck-attorneys.com](mailto:david@bismarck-attorneys.com)>; Tyler Gludt <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Brian Jorde <[BJorde@dominalaw.com](mailto:BJorde@dominalaw.com)>; Rosanne Ogden <[Rosanne@Bismarck-attorneys.com](mailto:Rosanne@Bismarck-attorneys.com)>

**Subject:** RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Derrick: