

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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From: Desirae Zaste <desirae@braatenlawfirm.com>

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

To: Randall Bakke <rbakke@bgwattorneys.com>; 'Zachary E. Pelham' <zep@pearce-durick.com>; Derrick Braaten <derrick@braatenlawfirm.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>

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

Good afternoon,

Attached is the stipulation with revisions. Thank you.

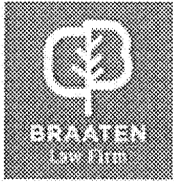
Desirae Zaste

Litigation Manager/Certified Paralegal

Exhibit 1

Case No.: 08-2024-CV-03622

Part 3 of 3



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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

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

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

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

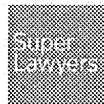
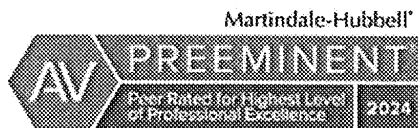
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From: Derrick Braaten <derrick@braatenlawfirm.com>

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 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.

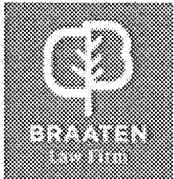
3610 is the second Emmons case.

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

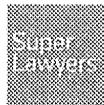
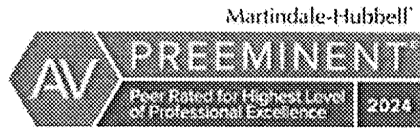
Derrick and Lawrence...any edits?

Zack

Zachary Pelham | Attorney

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

To: Steve Leibel <Steve@Bismarck-attorneys.com>; Zachary E. Pelham <zep@pearce-durick.com>; Derrick Braaten <derrick@braatenlawfirm.com>; Lawrence Bender <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

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From: Steve Leibel <Steve@Bismarck-attorneys.com>

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

To: Zachary E. Pelham <zep@pearce-durick.com>; Derrick Braaten <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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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

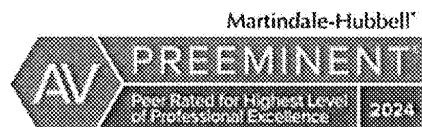
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Rosanne Ogden

From: Zachary E. Pelham <zep@pearce-durick.com>
Sent: Thursday, January 9, 2025 3:27 PM
To: Steve Leibel; Desirae Zaste; Randall Bakke; Derrick Braaten; 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

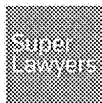
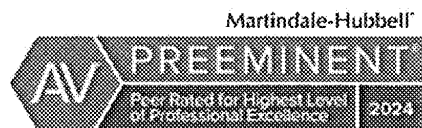
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Thanks Steve.
I don't have any edits.

Zachary Pelham | Attorney

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

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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Phone 701-255-2010 · Fax 701-255-1980
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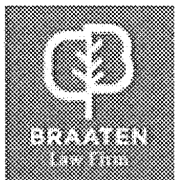
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Desirae Zaste

Litigation Manager/Certified Paralegal



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From: Randall Bakke <rbakke@bgwattorneys.com>

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

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

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Derrick:

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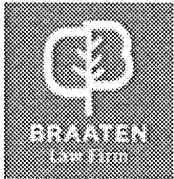
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Litigation Manager/Certified Paralegal



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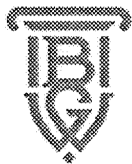
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From: Zachary E. Pelham <zep@pearce-durick.com>
Sent: Monday, January 6, 2025 3:26 PM
To: Derrick Braaten <derrick@braatenlawfirm.com>; Randall Bakke <rbakke@bgwattorneys.com>; Steve Leibel <Steve@Bismarck-attorneys.com>; Lawrence Bender <LBender@fredlaw.com>
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

Thank you Derrick.

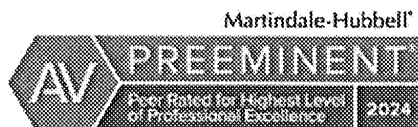
I do not have any issue with this.

Zack

Zachary Pelham | Attorney

Pearce Durick PLLC

314 E. Thayer Avenue
Bismarck, ND 58502
Main 701.223.2890 | **Fax** 701.223.7865
www.pearce-durick.com



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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.

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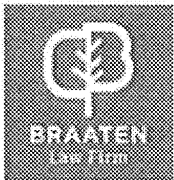
3610 is the second Emmons case.

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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Fax: 701-221-5842
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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

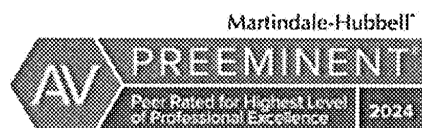
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Sent: Monday, January 6, 2025 1:50 PM

To: Steve Leibel <Steve@Bismarck-attorneys.com>; Zachary E. Pelham <zep@pearce-durick.com>; Derrick Braaten <derrick@braatenlawfirm.com>; Lawrence Bender <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



**Bakke
Grinolds
Wiederholt**
ATTORNEYS AT LAW

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Bismarck, ND 58502-4247

Phone: (701) 751-8188

Fax: (701) 751-7172

rbakke@bgwattorneys.com

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From: Steve Leibel <Steve@Bismarck-attorneys.com>

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

To: Zachary E. Pelham <zep@pearce-durick.com>; Derrick Braaten <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
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
www.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:

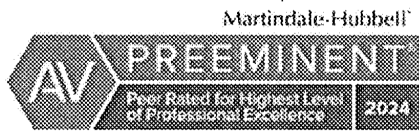
Attached is a draft stipulation to consolidate the appeals into the appeal before Judge Nesvig. Please let me know if I can insert your e-signature for filing.

Thank you and Happy New Year!
Zack

Zachary Pelham | Attorney

Pearce Durick PLLC

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Bismarck, ND 58502
Main 701.223.2890 | **Fax** 701.223.7865
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Rosanne Ogden

From: Randall Bakke <rbakke@bgwattorneys.com>
Sent: Thursday, January 9, 2025 3:42 PM
To: Steve Leibel; Desirae Zaste; 'Zachary E. Pelham'; Derrick Braaten; Lawrence Bender
Cc: John M. Schuh; David Knoll; Tyler Gludt; Brian Jorde; Rosanne Ogden; Sarah Martin
Subject: RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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Counsel:

On behalf of Burleigh County you have permission to attach my electronic signature to the latest version of the Stipulation for Consolidation circulated by Steve Leibel, referenced below, which is the action pending before Judge Nesvig.

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: Steve Leibel <Steve@Bismarck-attorneys.com>
Sent: Thursday, January 9, 2025 12:36 PM
To: Desirae Zaste <desirae@braatenlawfirm.com>; Randall Bakke <rbakke@bgwattorneys.com>; 'Zachary E. Pelham' <zep@pearce-durick.com>; Derrick Braaten <derrick@braatenlawfirm.com>; Lawrence Bender <LBender@fredlaw.com>

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

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
www.bismarck-attorneys.com

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From: Desirae Zaste <desirae@braatenlawfirm.com>

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

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

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

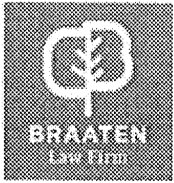
[WARNING: MESSAGE WAS SENT FROM OUTSIDE YOUR ORGANIZATION. Please verify identity of sender before following links or replying]

Good morning,

Attached is a revised version of the stipulation.

Desirae Zaste

Litigation Manager/Certified Paralegal



BRAATEN LAW FIRM
109 N. 4th Street, Suite 100
Bismarck, ND 58501
Phone: 701-221-2911
Fax: 701-221-5842
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From: Randall Bakke <rbakke@bgwattorneys.com>

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

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

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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

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Fellow-Litigation Counsel of America

Board Certified Civil Practice Advocacy



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

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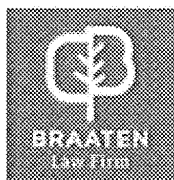
Subject: RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

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>; Derrick Braaten <derrick@braatenlawfirm.com>; Steve Leibel <Steve@Bismarck-attorneys.com>; Lawrence Bender <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

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

Thank you Derrick.

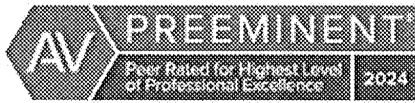
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Zack

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.

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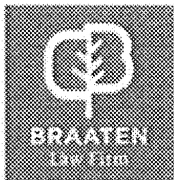
3610 is the second Emmons case.

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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Derrick and Lawrence...any edits?

Zack

Zachary Pelham | Attorney

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From: Randall Bakke <rbakke@bgwattorneys.com>

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

To: Steve Leibel <Steve@Bismarck-attorneys.com>; Zachary E. Pelham <zep@pearce-durick.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

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.

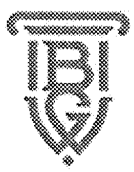
Kindly please advise whether the Stipulation is acceptable to all parties.

Randall J. Bakke

Certified Civil Trial Specialist – National Board of Trial Advocacy

Fellow-Litigation Counsel of America

Board Certified Civil Practice Advocacy



**Bakke
Grinolds
Wiederholt**
ATTORNEYS AT LAW

300 West Century Avenue

PO Box 4247

Bismarck, ND 58502-4247

Phone: (701) 751-8188

Fax: (701) 751-7172

rbakke@bgwattorneys.com

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From: Steve Leibel <Steve@Bismarck-attorneys.com>

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

To: Zachary E. Pelham <zep@pearce-durick.com>; Derrick Braaten <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
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
www.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

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

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

314 E. Thayer Avenue
Bismarck, ND 58502

Main 701.223.2890 | **Fax** 701.223.7865

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Rosanne Ogden

From: Steve Leibel
Sent: Tuesday, January 14, 2025 8:22 AM
To: Derrick Braaten; Bender, Lawrence
Cc: John M. Schuh; David Knoll; Gludt, Tyler; Brian Jorde; Rosanne Ogden; 'Zachary E. Pelham'; Randall Bakke; Desirae Zaste
Subject: RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Lawrence,

I am writing to clarify your email. Are you still waiting on your client's response? If your client is declining to consent to consolidation, we can take a different approach to this.

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
www.bismarck-attorneys.com

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From: Derrick Braaten <derrick@braatenlawfirm.com>
Sent: Thursday, January 9, 2025 3:10 PM
To: 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>; '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

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Ok, please let me know if/when you get authorization and are able to authorize me to put your signature on it. I will not file before receiving that from you.

Derrick Braaten



BRAATEN LAW FIRM
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Bismarck, ND 58501
Phone: 701-221-2911
Fax: 701-221-5842
www.braatenlawfirm.com

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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.

STAFF BIOGRAPHIES PRACTICE AREAS CONTACT US

Fredrikson

Main - 701-221-8700

Lawrence Bender
Attorney

lbender@fredlaw.com

Fredrikson & Byron, P.A.
304 East Front Avenue
Suite 400
Bismarck, ND 58504-5639

Biography | Download My Contact Info as V-Card

WWW.FREDEAW.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

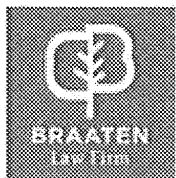
CAUTION: EXTERNAL E-MAIL

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
109 N. 4th Street, Suite 100
Bismarck, ND 58501
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Fax: 701-221-5842
www.braatenlawfirm.com

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From: Steve Leibel <Steve@Bismarck-attorneys.com>

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

To: Desirae Zaste <desirae@braatenlawfirm.com>; Randall Bakke <rbakke@bgwattorneys.com>; 'Zachary E. Pelham' <zep@pearce-durick.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

<TGJludt@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

[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
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
www.bismarck-attorneys.com

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From: Desirae Zaste <desirae@braatenlawfirm.com>

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

To: Randall Bakke <rbakke@bgwattorneys.com>; 'Zachary E. Pelham' <zep@pearce-durick.com>; Derrick Braaten <derrick@braatenlawfirm.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>

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

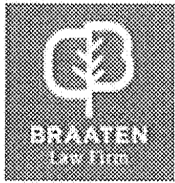
[WARNING: MESSAGE WAS SENT FROM OUTSIDE YOUR ORGANIZATION. Please verify identity of sender before following links or replying]

Good morning,

Attached is a revised version of the stipulation.

Desirae Zaste

Litigation Manager/Certified Paralegal



BRAATEN LAW FIRM
109 N. 4th Street, Suite 100
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Fax: 701-221-5842
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From: Randall Bakke <rbakke@bgwattorneys.com>

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

To: Desirae Zaste <desirae@braatenlawfirm.com>; 'Zachary E. Pelham' <zep@pearce-durick.com>; Derrick Braaten <derrick@braatenlawfirm.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>

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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Fax: (701) 751-7172
rbakke@bgwattorneys.com

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From: Desirae Zaste <desirae@braatenlawfirm.com>

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

To: Randall Bakke <rbakke@bgwattorneys.com>; 'Zachary E. Pelham' <zep@pearce-durick.com>; Derrick Braaten <derrick@braatenlawfirm.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>

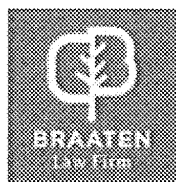
Subject: RE: PU-22-391 Appeal to District Court; Stipulation to Consolidate

Good afternoon,

Attached is the stipulation with revisions. Thank you.

Desirae Zaste

Litigation Manager/Certified Paralegal



BRAATEN LAW FIRM
109 N. 4th Street, Suite 100
Bismarck, ND 58501
Phone: 701-221-2911
Fax: 701-221-5842
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From: Randall Bakke <rbakke@bgwattorneys.com>

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

To: 'Zachary E. Pelham' <zep@pearce-durick.com>; Derrick Braaten <derrick@braatenlawfirm.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

[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
Grinolds
Wiederholt**
ATTORNEYS AT LAW

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Phone: (701) 751-8188
Fax: (701) 751-7172
rbakke@bgwattorneys.com

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

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

To: Derrick Braaten <derrick@braatenlawfirm.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

Thank you Derrick.

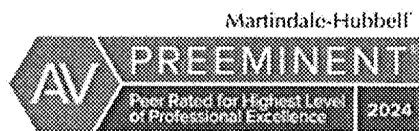
I do not have any issue with this.

Zack

Zachary Pelham | Attorney

Pearce Durick PLLC

314 E. Thayer Avenue
Bismarck, ND 58502
Main 701.223.2890 | **Fax** 701.223.7865
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From: Derrick Braaten <derrick@braatenlawfirm.com>

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 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.

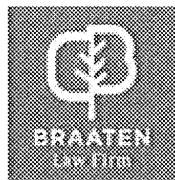
3610 is the second Emmons case.

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



BRAATEN LAW FIRM
109 N. 4th Street, Suite 100
Bismarck, ND 58501
Phone: 701-221-2911
Fax: 701-221-5842
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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

[Warning: External Sender]

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

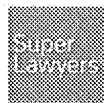
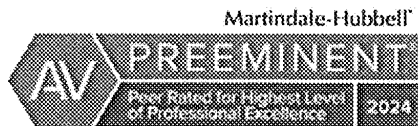
Derrick and Lawrence...any edits?

Zack

Zachary Pelham | Attorney

Pearce Durick PLLC

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Bismarck, ND 58502
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From: Randall Bakke <rbakke@bgwattorneys.com>
Sent: Monday, January 6, 2025 1:50 PM
To: Steve Leibel <Steve@Bismarck-attorneys.com>; Zachary E. Pelham <zep@pearce-durick.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

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>

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

To: Zachary E. Pelham <zep@pearce-durick.com>; Derrick Braaten <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



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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

Pearce Durick PLLC

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Bismarck, ND 58502

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