

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

DeAnna N. Lowder, Individually and as)
Personal representative of the Estate of)
Jeffery “Todd” Kinkaid Deceased,)
)
Plaintiff,)
)
vs.)
)
Slawson Exploration Company, Inc. a)
Kansas Corporation, Baker Hughes Oilfield)
Operations Inc., and John Does 1-4,)
)
Defendants.)

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 4:14-cv-17

The Plaintiff, DeAnna N. Lowder (“Lowder”), initiated this action for negligence and strict liability in the death of her son against the Defendants on February 12, 2014. See Docket No. 1. On March 26, 2014, Defendant Baker Hughes Oilfield Operations Inc. (“Baker Hughes”) filed a motion to dismiss for failure to state a claim. See Docket No. 15. The motion was referred to Magistrate Judge Karen K. Klein for a Report and Recommendation. See Docket No. 31. On July 31, 2014, Judge Klein issued her Report and Recommendation in which she recommended Baker Hughes’s motion to dismiss the survival claim be deemed moot by virtue of the filing of a second amended complaint, that Baker Hughes’s motion to dismiss the strict liability claim be granted and Lowder’s request to certify question of law to the North Dakota Supreme Court be denied. See Docket No. 34. The parties were given until August 18, 2014, to file any objections to the Report and Recommendation. No objections were filed.

The Court has carefully reviewed the Report and Recommendation, relevant case law, and the entire record, and finds the Report and Recommendation to be persuasive. North Dakota law does not recognize a claim for strict liability for abnormally dangerous activities. See Mehl v.

Canadian Pac. Ry., Ltd., 417 F. Supp. 2d 1104, 1118 (D.N.D. 2006).

Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 34) in its entirety. Baker Hughes's motion to dismiss (Docket No. 15) is **GRANTED** as to count two and **DENIED as moot** as to count one. Lowder's request to certify a question of law to the North Dakota Supreme Court (Docket No. 24) is **DENIED**.

IT IS SO ORDERED.

Dated this 2nd day of September, 2014.

/s/ Daniel L. Hovland

Daniel L. Hovland, District Judge
United States District Court