

FILED

STATE OF SOUTH DAKOTA )

DEC 24 2014

IN CIRCUIT COURT

COUNTY OF DAY )

):SS CLAUDETTE OPITZ  
DAY CO. CLERK OF COURTS

FIFTH JUDICIAL CIRCUIT

GERALD PESALL,

Appellant,

v.

MONTANA DAKOTA UTILITIES, OTTER  
TAIL POWER, SCHURING FARMS, INC.,  
BRADLEY MOREHOUSE, AND THE  
SOUTH DAKOTA PUBLIC UTILITIES  
COMMISSION,

Appellees.

CIV. 14-53

JUDGMENT

Appellant, Gerald Pesall, appeals from the Final Decision and Order; Notice of Entry dated August 22, 2014 ("the Decision") issued by the Public Utilities Commission of the State of South Dakota ("PUC") in the docket captioned *In the Matter of the Application of Montana-Dakota Utilities Co. and Otter Tail Power Company for a Permit to Construct the Big Stone South to Ellendale 345kv Transmission Line*, Docket EL 13-028. The Decision granted Appellees Montana Dakota Utilities Company and OtterTail Power Company's application for a facility permit for a 345-kv transmission line. The appeal came before the Circuit Court for oral argument, Honorable Scott P. Myren presiding, on December 23, 2014, at 2:00 p.m. Appellant Gerald Pesall appeared telephonically through his attorney, Bob Pesall. Appellees Montana-Dakota Utilities Co. and OtterTail Power Company appeared telephonically through Thomas J. Welk and Jason R. Sutton. The PUC appeared through its attorney, John J. Smith. Based upon

the Court's review of the administrative record, and the oral and written arguments of the parties,  
it is hereby

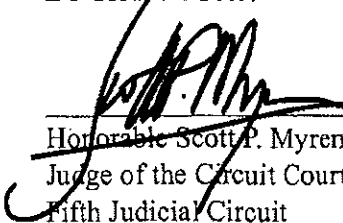
ORDERED, ADJUDGED and DECREED that the Decision is affirmed. It is further

ORDERED, ADJUDGED and DECREED that pursuant to SDCL 1-26-36, the findings of fact and conclusions of law dated August 22, 2014, entered by the PUC are affirmed and adopted as this Court's findings of fact and conclusions of law except as specifically modified by the Court on the record during the oral argument on December 23, 2014. It is further

ORDERED, ADJUDGED and DECREED that, for the reasons stated by the Court on the record during the oral argument, the soybean cyst nematode mitigation plan conditions, as set forth in Finding of Fact 47, and on Page 15 of the Final Decision and Order do not constitute an unlawful delegation of the Commission's authority, and do not conflict with the twelve month decisional requirement set forth in SDCL 49-41B-24.

Dated this 24th day of December, 2014.

BY THE COURT:

  
\_\_\_\_\_  
Honorable Scott P. Myren  
Judge of the Circuit Court  
Fifth Judicial Circuit

ATTEST:

Claudette Opitz, CLERK

By:  Deputy

(SEAL)