

IN THE MATTER OF THE APPLICATION OF
MONTANA-DAKOTA UTILITIES CO. AND
OTTER TAIL POWER COMPANY FOR A
PERMIT TO CONSTRUCT THE BIG STONE
TO SOUTH ELLENDALE 345KV
TRANSMISSION LINE

GERALD PESALL'S STATEMENT OF ISSUES
ON APPEAL

CIV 14-53

Pursuant to S.D.C.L. 1-26-31.4, Gerald Pesall now makes the following statement of issues to be presented to the Circuit Court for review in the above-captioned appeal.

1. Whether the Public Utilities Commission's findings of fact were clearly erroneous, specifically including its findings regarding:
 - a) the public need and public benefit of the project as set out in findings of fact number 14 through 21 and 23,
 - b) the impacts of the project and the adequacy of the Applicants' proposed mitigation efforts, as set out in findings of fact number 28 through 30,
 - c) Gerald Pesall's objections to the project, including the impact on property values, the impact on farming activities, and the spread of Soybean Cyst Nematode, as set out in findings of fact number 33 through 57, and
 - d) the Applicants' satisfaction of of Requirements for the Issuance of the Transmission Facility Permit, as set out in findings of fact number 71 through 81.
2. Whether the Public Utilities Commission erred as in making its conclusion of law number 14, and admitting the MISO studies into evidence.
3. Whether the Public Utilities Commission erred in making its conclusions of law number 15 and 16, and concluding that the Applicants had satisfied their burden of proving the elements required by S.D.C.L. 49-41B-22.
4. Whether the Public Utilities Commission erred in making its conclusion of law number 18, and incorrectly applying the burden of proof established by S.D.C.L. 49-41B-22.
5. Whether the Public Utilities Commission improperly delegated its authority in violation of S.D.C.L. 49-1-17 by ordering the Applicants to submit a soybean cyst nematode mitigation plan after the issuance of the permit.
6. Whether the Public Utilities Commission exceeded the twelve month limitation established by S.D.C.L. 49-41B-24 by ordering the Applicants to submit a soybean cyst nematode mitigation plan after the permit was issued.

Dated this 22nd day of September, 2014



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