

Moreover, there is no dispute that the Presidential Permit is consistent with the Commission's decision accepting Keystone's certification. In response to the Intervenors' argument that Keystone could not comply with PUC Permit Condition 1 because its application for a Presidential Permit had been denied, the Commission concluded that nothing precluded Keystone from reapplying and obtaining a Presidential Permit in the future, and if that happened, Keystone would be in compliance with Condition 1, which is prospective. The Yankton Sioux Tribe can avoid the logic of this reasoning, combined with the undeniable fact that a Presidential Permit has now been granted, only by objecting to Keystone's motion on technical grounds and asking the Court to pretend that the Presidential Permit was not granted.

If the Court has any concerns that granting Keystone's motion would be contrary to SDCL § 1-26-34, then Keystone respectfully requests that the Court take judicial notice of the Presidential Permit, for the same reasons and on the same grounds that the Court took judicial notice of Keystone's application for the Permit.

Keystone respectfully requests that the Court grant its motion to supplement the record with the Presidential Permit, a public record. Alternatively, Keystone asks that the Court take judicial notice of the Presidential Permit.

Dated this 13th day of April, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of April, 2017, I electronically filed and served a true and correct copy of the foregoing Appellee's Reply Brief in Support of Motion to Supplement the Record on Appeal using the Odyssey File & Serve System, which will automatically send e-mail notification of such service to the following:

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