

Sioux Falls, SD 57108

James Moore
Counsel for TransCanada Keystone Pipeline
PO Box 5027
Sioux Falls, SD 57117

Tracey Zephier
Counsel for Cheyenne River Sioux Tribe
520 Kansas City Street, Ste. 101
Rapid City, SD 57701

Robert Gough
Counsel for Intertribal Council on Utility Policy
PO Box 25
Rosebud, SD 57570

Robin Martinez
Counsel for Dakota Rural Action
616 W. 26th Street
Kansas City, MO 64108

Bruce Ellison
Counsel for Dakota Rural Action
PO Box 2508
Rapid City, SD 57709

Jennifer Baker
Counsel for Yankton Sioux Tribe
1900 Plaza Drive
Louisville, CO 80027

Peter Capossela
Counsel for Individual and Family Appellants
PO Box 10643
Eugene, OR 97440

SECTION B. TIMELINESS OF APPEAL

1. The Memorandum Decision was filed on the 19th of June, 2017, by the trial court.

2. The date notice of entry of the judgment or order was served on the 20th of June, 2017.

3. State whether either of the following motions was made:

a. Motion for judgment n.o.v., SDCL 15-6-50(b):

YES NO

b. Motion for new trial, SDCL 15-6-59:

YES NO

NATURE AND DISPOSITION OF CLAIMS

4. State the nature of each party's separate claims, counterclaims of cross-claims and the trial court's disposition of each claim.

This case involves the challenge made by Appellant and other intervenors to TransCanada Keystone Pipeline, LP's (hereinafter, "TransCanada") petition for certification under SDCL § 49-41B-27 of the South Dakota Public Utility Commission's (hereinafter, the "PUC") Amended Final Decision and Order of June 29, 2010, for construction of the proposed Keystone XL Pipeline. Appellant and other intervenors appealed the PUC's decision to grant certification under SDCL § 49-41B-27 to the trial court. The trial court affirmed the PUC's decision.

5. Appeals of right may be taken only from final, appealable orders. See SDCL § 15-26A-3 and 4.

a. Did the trial court enter a final judgment or order that resolves all of each party's individual claims, counterclaims, or cross-claims?

YES NO

b. If the trial court did not enter a final judgment or order as to each party's individual claims, counterclaims, or cross-claims, did the trial court make a determination and direct entry of judgment pursuant to SDCL 15-6-54(b)?

YES NO N/A

6. State each issue to be presented for review. (Parties will not be bound by these statements.)

Did the PUC err when it shifted the burden of proof required in SDCL 49-41B-22 and ARSD 20:10:01:15.01, thereby requiring appellants to prove that appellee cannot comply with the conditions of the original permit instead of requiring appellee to prove that it continues to meet the conditions for certification.

Date: 7/19/2017

Tracey Zephier
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Attached is a copy of any memorandum opinion and findings of fact or conclusions of law supporting the judgment or order appealed from. See SDCL § 15-26A-4(2).