

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

WHITE EARTH NATION, et al.,

Plaintiffs,

vs.

JOHN KERRY, in his official capacity as
Secretary of State, et al.,

Defendants,

ENBRIDGE ENERGY, LIMITED
PARTNERSHIP

Intervenor Defendant.

Case No. 0:14-cv-04726 (MJD/LIB)

**PLAINTIFFS' MOTION FOR PARTIAL
SUMMARY JUDGMENT ON
PLAINTIFFS' AMENDED COMPLAINT**

Hon. Michael J. Davis
U.S. District Judge

Hearing date: September 10, 2015

Time: 9:30 a.m.

Plaintiffs White Earth Nation, Honor the Earth, Indigenous Environmental Network, Minnesota Conservation Federation, MN350, Center for Biological Diversity, Sierra Club, and National Wildlife Federation (collectively, "Plaintiffs") hereby move for partial summary judgment as to liability on Plaintiffs' First and Second Claims for Relief in Plaintiffs' First Amended Complaint, pursuant to Fed. R. Civ. P. 56 and Local Rule 7.1(b). This motion is being filed in the above-captioned case, presided over by U.S. District Chief Judge Davis. A hearing is scheduled for this motion on September 10, 2015 at 9:30 a.m.

Plaintiffs are entitled as a matter of law to partial summary judgment because Defendants John Kerry and United States Department of State (jointly, "State Department") violated the National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq.* ("NEPA"), and its implementing regulations, and the National Historic Preservation Act,

16 U.S.C. §§ 470 *et seq.* (“NHPA”), and its implementing regulations, when State Department (1) authorized a new, high-capacity pipeline without any NEPA or NHPA compliance; and (2) short-circuited an ongoing NEPA and NHPA review of a pipeline expansion project.

The State Department: (i) violated NEPA’s limitations on actions taken during the NEPA process; and (ii) approved a new, high-capacity pipeline without complying with NEPA.

State Department violated NHPA because it did not take into account the effect of its actions on the White Earth Nation.

Accordingly, Plaintiffs respectfully request that this Court grant Plaintiffs’ Motion for Partial Summary Judgment and adopt Plaintiffs’ Proposed Order holding State Department in violation of NEPA and NHPA.

In support of this Motion, Plaintiffs submit the accompanying Memorandum in Support, Declaration of White Earth Nation, Declaration of Betty Andersen, Declaration of John Munter, Declaration of Lois Norrgard, Declaration of Joshua Davis, Declaration of Neal Lesmeister, Declaration of Vicki Andrews, Declaration of Kathryn McKenzie, and Declaration of Richard B. Kuprewicz.

Respectfully submitted,

s/ Kenneth J. Rumelt
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Dated: April 6, 2015