

SUPREME COURT OF IOWA

Keith Punttenney, Laverne I. Johnson, Richard R. Lamb, Marian D. Johnson, Northwest Iowa Landowners Association, Iowa Farmland Owners Association, Inc., and the Sierra Club Iowa Chapter v. Iowa Utilities Board, Office of Consumer Advocate and The Main Coalition, and Dakota Access, LLC

928 N.W.2d 829 (Iowa 2019) · No. No. 17-0423 · Decided May 31, 2019

SUMMARY

The Iowa Supreme Court affirmed the denial of judicial review of the Iowa Utilities Board’s authorization for Dakota Access, LLC, to construct a crude-oil pipeline and use eminent domain to obtain necessary easements. The court held that substantial evidence supported the Board’s determination that the pipeline promoted the public convenience and necessity, and that the statutory and constitutional public-use requirements were satisfied. The court also held that the Sierra Club had standing and that the appeal was not moot despite completion of the pipeline.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Mansfield, Justice; All justices except Wiggins, Appel, and McDonald concurred in the majority judgment
JURISDICTION	Iowa
DECIDED	May 31, 2019
DOCKET	No. 17-0423
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Polk County District Court judgment denying consolidated petitions for judicial review of an Iowa Utilities Board order authorizing Dakota Access, LLC, to construct a crude-oil pipeline and exercise eminent domain to obtain easements.
STANDARD OF REVIEW	The court applies the standards in Iowa Code section 17A.19(10) and determines whether those standards produce the same result as the district court. Constitutional issues are reviewed de novo; agency statutory interpretations receive deference when the legislature clearly vested the agency with interpretive authority, otherwise review is for

	correction of errors at law; factual findings are reviewed for substantial evidence.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential.
PARTIES	Keith Puntenney, Laverne I. Johnson, Richard R. Lamb, Trustee of the Richard R. Lamb Revocable Trust, Marian D. Johnson by her Agent Verdell Johnson, Northwest Iowa Landowners Association, Iowa Farmland Owners Association, Inc., Sierra Club Iowa Chapter, Hickenbottom Experimental Farms, Inc., Prendergast Enterprises, Inc. v. Iowa Utilities Board, a Division of the Department of Commerce, State of Iowa, Office of Consumer Advocate, The Main Coalition, Dakota Access, LLC

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QUESTIONS PRESENTED

1. Whether the Sierra Club had standing to seek judicial review of the IUB's pipeline decision.
2. Whether completion and operation of the pipeline rendered the appeal moot.
3. Whether the IUB's balancing of public benefits and costs reasonably supported its finding that the pipeline promoted the public convenience and necessity under Iowa Code section 479B.9.
4. Whether Iowa Code sections 6A.21 and 6A.22 barred Dakota Access from condemning agricultural land without landowner consent.
5. Whether Dakota Access qualified as a company under the jurisdiction of the IUB and as a common carrier.
6. Whether eminent domain for the interstate pipeline constituted a public use under article I, section 18 of the Iowa Constitution and the Fifth and Fourteenth Amendments.
7. Whether the IUB acted unlawfully or arbitrarily in rejecting individual landowner requests to reroute the pipeline or address drainage-tile and wind-turbine concerns.

HOLDINGS

1. The Sierra Club had standing because its members averred that they used and enjoyed affected environmental areas and that the pipeline threatened to lessen those aesthetic and recreational interests; property ownership directly on the pipeline route was not required.

2. The appeal was not moot even though the pipeline had been completed and was operating, because the IUB retained authority to impose terms, conditions, or restrictions that could provide effective relief short of dismantling the entire pipeline.
3. The IUB reasonably interpreted and applied the public-convenience-and-necessity requirement as a flexible balancing test weighing public benefits against public and private costs, and its determination was supported by substantial evidence.
4. Iowa Code sections 6A.21 and 6A.22 did not bar Dakota Access from exercising eminent domain because Dakota Access was a company under the jurisdiction of the IUB and a common carrier.
5. Eminent domain for the Dakota Access pipeline constituted a public use under article I, section 18 of the Iowa Constitution and the Fifth Amendment, even though the pipeline crossed Iowa without taking on or delivering oil within the state.
6. The IUB did not act arbitrarily or unlawfully in refusing to reroute the pipeline around Punttenney's property or in requiring the pipeline to be bored beneath Johnson's drainage system.

KEY QUOTATIONS

“The approach is consistent with our prior caselaw and is supported by legal authority elsewhere.” (at 18)

“Like our colleagues in Illinois, Michigan, Ohio, and Oklahoma, we find that Justice O’Connor’s dissent provides a more sound interpretation of the public-use requirement.” (at 31-32)

“The Iowa Constitution does not hang on the presence of spigots and on-ramps.” (at 37)

FACTUAL BACKGROUND

Dakota Access proposed and obtained approval to construct an approximately 343-mile underground crude-oil pipeline across Iowa from North Dakota to Illinois. The Iowa Utilities Board found that the pipeline would provide safer and less costly transportation than rail, produce economic benefits, and minimize environmental and agricultural impacts through route and construction conditions. Several landowners and the Sierra Club challenged the permit, eminent-domain authority, and the public-use basis for taking agricultural easements; construction was completed and oil was flowing during the appeal.

PROCEDURAL HISTORY

The Iowa Utilities Board approved Dakota Access's pipeline permit and eminent-domain authority after an extensive administrative proceeding. The district court denied the landowners' and Sierra Club's petitions for judicial review, concluding that the IUB's decision was supported by substantial evidence and complied with statutory and constitutional public-use requirements. The Iowa Supreme Court retained the appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- Hawkeye Land Co. v. Iowa Utilities Board, 847 N.W.2d 199, 207-08 (Iowa 2014)
- Auen v. Alcoholic Beverages Division, 679 N.W.2d 586, 589 (Iowa 2004)
- NextEra Energy Resources LLC v. Iowa Utilities Board, 815 N.W.2d 30, 37, 42, 44 (Iowa 2012)
- Doe v. Iowa Department of Human Services, 786 N.W.2d 853, 857 (Iowa 2010)
- Renda v. Iowa Civil Rights Commission, 784 N.W.2d 8, 14 (Iowa 2010)
- Citizens for Washington Square v. City of Davenport, 277 N.W.2d 882, 886 (Iowa 1979)
- Bushby v. Washington County Conservation Board, 654 N.W.2d 494, 496-97 (Iowa 2002)
- Friends of the Earth, Inc. v. Laidlaw Environmental Services, 528 U.S. 167, 183 (2000)
- Welton v. Iowa State Highway Commission, 208 Iowa 1401, 227 N.W. 332 (1929)
- Porter v. Board of Supervisors, 238 Iowa 1399, 28 N.W.2d 841 (1947)
- Lewis Investments, Inc. v. City of Iowa City, 703 N.W.2d 180, 184 (Iowa 2005)
- Grandview Baptist Church v. Zoning Board of Adjustment, 301 N.W.2d 704, 706, 708-09 (Iowa 1981)
- Thomson v. Iowa State Commerce Commission, 235 Iowa 469, 475, 15 N.W.2d 603, 606 (1944)
- S.E. Iowa Cooperative Electric Association v. Iowa Utilities Board, 633 N.W.2d 814, 820-21 (Iowa 2001)
- Federal Power Commission v. Transcontinental Gas Pipe Line Corp., 365 U.S. 1, 23 (1961)
- Wright v. Midwest Old Settlers & Threshers Association, 556 N.W.2d 808, 810-11 (Iowa 1996) (per curiam)
- State ex rel. Board of Railroad Commissioners v. Rosenstein, 217 Iowa 985, 989-93, 252 N.W. 251, 254-55 (1934)
- State ex rel. Board of Railroad Commissioners v. Carlson, 217 Iowa 854, 857, 251 N.W. 160, 161 (1933)
- Mid-American Pipeline Co. v. Iowa State Commerce Commission, 253 Iowa 1143, 1146-47, 114 N.W.2d 622, 624 (1962)
- Crawford Family Farm Partnership v. TransCanada Keystone Pipeline, L.P., 409 S.W.3d 908, 922-24 (Tex. App. 2013)
- Kelo v. City of New London, 545 U.S. 469, 477-84, 497-98 (2005)
- Clarke County Reservoir Commission v. Robins, 862 N.W.2d 166, 171-72 (Iowa 2015)
- Star Equipment, Ltd. v. State, 843 N.W.2d 446, 459 n.11 (Iowa 2014)
- Enbridge Energy (Illinois), L.L.C. v. Kuerth, 99 N.E.3d 210, 218-21 (Ill. App. Ct. 2018)
- Sunoco Pipeline L.P. v. Teter, 63 N.E.3d 160, 171-74 (Ohio Ct. App. 2016)
- Mountain Valley Pipeline, LLC v. McCurdy, 793 S.E.2d 850, 860-63 (W. Va. 2016)
- Bluegrass Pipeline Co. v. Kentuckians United to Restrain Eminent Domain, Inc., 478 S.W.3d 386, 388, 391-92 (Ky. Ct. App. 2015)
- Green v. Wilderness Ridge, L.L.C., 777 N.W.2d 699, 704 (Iowa 2010)
- Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, 301 F. Supp. 3d 50, 61-64 (D.D.C. 2018)
- Campbell-Ewald Co. v. Gomez, 577 U.S. 153, 160-61 (2016)