

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

Environmental Law and Policy Center, and Dakota Resource Council	)	
	)	
	)	
	)	
Appellants,	)	Supreme Court No. _____
	)	
vs.	)	Burleigh County District Court Case No.: 08-2018-CV-02937
North Dakota Public Service Commission, and Meridian Energy Group, Inc.,	)	
	)	
	)	
Appellees.	)	
	)	
	)	

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Appeal from Judgment Entered on May 15, 2019  
Case No. 08-2018-CV-02937  
County of Burleigh, South Central Judicial District  
The Honorable Bruce A. Romanick, Presiding

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**NOTICE OF APPEAL  
AND PRELIMINARY STATEMENT OF ISSUES ON APPEAL**

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Braaten Law Firm  
  
Derrick Braaten, ND Bar #06394  
JJ England, ND Bar #08135  
109 North 4th Street, Suite 100  
Bismarck, ND 58501  
Phone: (701) 221-2911  
**Attorneys for Appellants**

¶ 1] PLEASE TAKE NOTICE that the Dakota Resource Council (“DRC”) and the Environmental Law and Policy Center (“ELPC”) hereby give notice of their appeal under N.D.C.C. § 28-27-02 to the North Dakota Supreme Court of the District Court’s final judgment dated May 15, 2019 and the District Court’s Memorandum Opinion dated May 14, 2019 in Burleigh County District Court Case No. 08-2018-CV-02937.

**Preliminary Statement of Issues for Appeal**

¶ 2] DRC and ELPC hereby declare the following preliminary issues for this appeal:

- a. Whether the district court erred by affirming the Public Service Commission’s (“PSC”) determination that the PSC lacks jurisdiction to hear a formal complaint filed by DRC and ELPC against Meridian Energy Group, Inc. for starting construction of a 55,000 bpd refinery without a siting permit, when North Dakota’s Energy Conversion and Transmission Facilities Act grants the PSC siting jurisdiction over oil refineries “capable of ... [m]anufacture or refinement of fifty thousand barrels ... or more of liquid hydrocarbons per day.” N.D.C.C. § 49-22.1-01(6).
- b. Whether the PSC “afford[ed] a fair hearing” to DRC and ELPC as required by the Administrative Agency Practice Act (“AAPA”), N.D.C.C. § 28-32-46(4), when the PSC weighed disputed material facts, entered findings of fact, and dismissed DRC’s and ELPC’s complaint without holding any hearing or allowing discovery.
- c. Whether the “provisions of the [AAPA] were “complied with” by the PSC when it denied DRC and ELPC discovery and the right to a formal hearing. N.D.C.C. § 28-32-46(3).

DATED this 15<sup>th</sup> day of July, 2019.

**BRAATEN LAW FIRM**

By:

/s/ Derrick Braaten

Derrick Braaten, ND Bar # 06394  
JJ England, ND Bar #08135  
109 North 4<sup>th</sup> Street, Suite 100  
Bismarck, ND 58501  
Phone: 701-221-2911  
Fax: 701-221-5842  
derrick@braatenlawfirm.com  
jj@braatenlawfirm.com

*Attorneys for Appellants*

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Commission, and Meridian Energy )  
Group, Inc., )  
Appellees. )  
)  
Burlleigh County District Court Case  
No.: 08-2018-CV-02937

**CERTIFICATE OF SERVICE**

I hereby certify that on July 15<sup>th</sup>, 2019, I electronically filed with the Clerk of the  
North Dakota Supreme Court the following documents:

1. NOTICE OF APPEAL AND PRELIMINARY STATEMENT OF ISSUES  
ON APPEAL

and served the same electronically upon the following:

Jennifer L. Verleger jverleger@nd.gov Attorney for Appellee North Dakota Public Service Commission	Illona A. Jeffcoat-Sacco ijs@nd.gov Attorney for Appellee North Dakota Public Service Commission
John M. Schuh jschuh@nd.gov Attorney for Appellee North Dakota Public Service Commission	Lawrence Bender LBender@fredlaw.com Attorney for Appellee North Dakota Meridian Energy Group, Inc.
Scott Strand sstrand@elpc.org Attorney for Environmental Law and Policy Center	Rachel Granneman rgranneman@elpc.org Attorney for Environmental Law and Policy Center

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/s/ JJ England  
JJ ENGLAND