

FILED: May 30, 2018

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 17-1640  
(8:16-cv-04003-HMH)

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UPSTATE FOREVER; SAVANNAH RIVERKEEPER

Plaintiffs - Appellants

v.

KINDER MORGAN ENERGY PARTNERS, L.P.; PLANTATION PIPE LINE  
COMPANY, INC.

Defendants - Appellees

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ANDERSON COUNTY, SOUTH CAROLINA; PIPELINE SAFETY TRUST

Amici Supporting Appellant

AMERICAN PETROLEUM INSTITUTE; ASSOCIATION OF OIL PIPE  
LINES; GPA MIDSTREAM ASSOCIATION; TEXAS PIPELINE  
ASSOCIATION; NATIONAL ASSOCIATION OF COUNTIES; NATIONAL  
LEAGUE OF CITIES; NATIONAL ASSOCIATION OF CLEAN WATER  
AGENCIES; AMERICAN FOREST AND PAPER ASSOCIATION;  
AMERICAN IRON AND STEEL INSTITUTE; EDISON ELECTRIC  
INSTITUTE; NATIONAL MINING ASSOCIATION; UTILITY WATER ACT  
GROUP; STATE OF WEST VIRGINIA; STATE OF SOUTH CAROLINA;  
STATE OF ALABAMA; STATE OF ARKANSAS; STATE OF INDIANA;  
STATE OF KANSAS; STATE OF LOUISIANA; STATE OF MISSOURI;  
STATE OF OKLAHOMA; STATE OF UTAH; STATE OF WISCONSIN;  
GOVERNOR PHIL BRYANT

Amici Supporting Appellee

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA;  
NATIONAL ASSOCIATION OF MANUFACTURERS

Amici Curiae Supporting Rehearing Petition

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O R D E R

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Upon consideration of appellees' petition for rehearing and rehearing en banc and appellants' response, Chief Judge Gregory and Judge Keenan voted to deny panel rehearing, and Judge Floyd voted to grant panel rehearing.

A requested poll of the court failed to produce a majority of judges in regular active service and not disqualified who voted in favor of rehearing en banc. Chief Judge Gregory, Judge Wilkinson, Judge King, Judge Duncan, Judge Keenan, Judge Wynn and Judge Diaz voted to deny rehearing en banc. Judge Niemeyer, Judge Traxler, Judge Agee, Judge Floyd, and Judge Thacker voted to grant rehearing en banc. Judge Motz and Judge Harris did not participate in the poll.

The petition for rehearing and rehearing en banc is denied.

Entered at the direction of Judge Keenan.

For the Court

/s/ Patricia S. Connor, Clerk