Wednesday, November 16, 2011
10:00 A.M.

NO. 2

#25894

LOREN POURIER d/b/a MUDDY CREEK
OIL AND GAS, INC. and MUDDY
CREEK OIL AND GAS, INC.
Claimants and Appellees,

vs.

SOUTH DAKOTA DEPARTMENT OF
REVENUE AND REGULATION,
Respondent and Appellants.

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The Honorable John Brown (CIV 99-196)
Sixth Judicial Circuit
Hughes County

20-20-10

STATEMENT OF ISSUE

WHETHER THE POSITION TAKEN BY THE DEPARTMENT OF REVENUE AND REGULATION IN THE UNDERLYING *POURIER* LITIGATION WAS "SUBSTANTIALLY JUSTIFIED?"

The circuit court found that the position taken by the Department of Revenue and Regulation (DORR) in the underlying *Pourier* litigation was not "substantially justified."

Pourier v. South Dakota Dept. of Revenue (Pourier I), 2003 S.D. 21, 658 N.W.2d 395.

Pourier v. South Dakota Dept. of Revenue (Pourier II), 2004 S.D. 3, 674 N.W.2d 314

Northern States Power Company v. South Dakota Department of Revenue, 1998 S.D. 57, 578 N.W.2d 579

Farmer v. South Dakota Department of Revenue and Regulation, 2010 S.D. 35, 781 N.W.2d 655

SDCL 10-59-34

4 U.S.C. § 104 (Hayden-Cartwright Act)