

1 BEFORE THE BOARD OF ENVIRONMENTAL REVIEW

2 OF THE STATE OF MONTANA

3

4 BOARD MEETING )

5 MARCH 6, 2009 )

6

7 TRANSCRIPT OF PROCEEDINGS

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9 Heard at the Metcalf Building

10 1520 East Sixth Avenue

11 Helena, Montana

12 March 6, 2009

13 9:00 a.m.

14

15 BEFORE CHAIRMAN JOSEPH RUSSELL,

16 BOARD MEMBERS LARRY MIRES, HEIDI KAISER, BILL

17 ROSSBACH, ROBIN SHROPSHIRE, JOE WHALEN (all by

18 telephone); and MARVIN MILLER

19

20

21 PREPARED BY: LAURIE CRUTCHER, RPR

22 COURT REPORTER, NOTARY PUBLIC

23 P.O. BOX 1192, HELENA, MT 59624

24 (406) 442-8262

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1           WHEREUPON, the following proceedings were  
2 had:

3                           \* \* \* \* \*

4           CHAIRMAN RUSSELL: I will call this  
5 teleconference meeting of the Board of  
6 Environmental Review to order. And Joyce, would  
7 you mind doing a roll call.

8           MS. WITTENBERG: Sure. Bill Rossbach.

9           MR. ROSSBACH: Here.

10          MS. WITTENBERG: Larry Mires.

11          MR. MIRES: Present.

12          MS. WITTENBERG: Marvin Miller.

13          MR. MILLER: Here.

14          MS. WITTENBERG: Joe Russell.

15          CHAIRMAN RUSSELL: Present.

16          MS. WITTENBERG: Joe Whalen.

17          MR. WHALEN: Here.

18          MS. WITTENBERG: Heidi Kaiser.

19          MS. KAISER: Here.

20          MS. WITTENBERG: Robin Shropshire.

21          MS. SHROPSHIRE: Here.

22          CHAIRMAN RUSSELL: Good. We have  
23 basically one action item, an action item on  
24 appeal, and that would be in the matter of the  
25 appeals of the record of decision under the Major

1 Facility Siting Act related to the Montana Alberta  
2 Tie, Limited, Transition Line, BER 2008-19. Tom,  
3 do you want to kick us off, or Katherine, do you  
4 want to just kick us off here?

5 MS. ORR: I'd be glad to. Mr. Chairman,  
6 members of the Board, you have before you an order  
7 of dismissal of the three cases, 2008-19, 2008-20,  
8 2008-21. These involve the Petitioners, Jerry  
9 McRae, Chris Stephens, and Michael Koenig and  
10 Donald Koenig, and the Department of Environmental  
11 Quality, and NaturEner, Inc.

12 The parties have gotten together in  
13 three stipulations a request for dismissal under  
14 Rule 41(a) Sub (2)(ii) of the Montana Rules of  
15 Civil Procedure, and that means that they are  
16 asking to withdraw from the jurisdiction of the  
17 Board, and I recommend that you go ahead and sign  
18 it.

19 CHAIRMAN RUSSELL: Okay. Are there any  
20 Board members that have any questions for  
21 Katherine?

22 (No response)

23 CHAIRMAN RUSSELL: Hearing none, I have  
24 an order of dismissal for Case Nos. BER 2008-19  
25 MFS, 2008-20 MFS, and 2008-21 MF. There is an "S"

1 missing on that, so I'm sure that that will be  
2 corrected before I sign the order. Do I have a  
3 motion to authorize the Board Chair to sign?

4 MR. MIRES: This is Larry. So moved.

5 CHAIRMAN RUSSELL: It's been moved by  
6 Larry. Is there a second?

7 MR. ROSSBACH: Second.

8 CHAIRMAN RUSSELL: It's been seconded by  
9 Bill. Further discussion?

10 (No response)

11 CHAIRMAN RUSSELL: Hearing none, all  
12 those in favor, signify by saying aye.

13 (Response)

14 CHAIRMAN RUSSELL: Opposed.

15 (No response)

16 CHAIRMAN RUSSELL: Motion carries  
17 unanimously. Anything else, Katherine, on this?

18 MS. ORR: No.

19 CHAIRMAN RUSSELL: As is customary at  
20 all Board meetings, whether in person or  
21 teleconference, is there anyone on the phone or in  
22 the room in Helena that would like to address the  
23 Board on matters pertaining to the Board's  
24 jurisdiction?

25 Tom, you're peering around right now?

1 MR. ELLERHOFF: I see none here, Joe.

2 MR. HARRIS: Chairman, this is Harley  
3 Harris of Luxan & Murfitt in Helena. I'm Legal  
4 Counsel for the applicant, Montana Alberta Tie. I  
5 would just want on behalf of MATL to express our  
6 thanks to Hearing Examiner Orr and to the Board in  
7 particular for being willing to expedite its  
8 consideration of this matter, and bring this to a  
9 prompt conclusion. So we do appreciate that, and  
10 we appreciate everything that Katherine did as  
11 Hearing Examiner in this matter.

12 CHAIRMAN RUSSELL: Great. That's good  
13 to hear. If you have a chance to pass that on to  
14 our legislators, I would appreciate that.

15 MR. HARRIS: Will do.

16 MR. WILLIAMS: Bob Williams. We'd be  
17 happy to do that.

18 MR. ELLERHOFF: Mr. Chairman, Joyce will  
19 send you the corrected version, and if you sign it  
20 and send it back to us, we'll get it out as  
21 quickly as possible.

22 CHAIRMAN RUSSELL: All right. That  
23 would be great. I'll do that. Do I have a motion  
24 to adjourn?

25 I look forward to meeting our new Board

1 members at the end of the month, and we'll have  
2 plenty of time to talk and get acquainted then,  
3 I'm sure.

4 MS. SHROPSHIRE: Joe, can I just mention  
5 one thing that I heard yesterday? This is Robin  
6 Shropshire. Kelly Gebhardt, Senator Gebhardt, who  
7 chairs Senate Natural Resources, called me about  
8 Senate confirmation, and I was going to have Tom  
9 Livers pass this on. But I think they're doing  
10 their budget today.

11 But just to -- I think individually we  
12 will have to introduce ourselves to Senate Natural  
13 Resources at some point, and he didn't want people  
14 to have to make a special trip to Helena to do  
15 that. But if people are in town, or if there is a  
16 Board meeting that we could coordinate that  
17 around, he wanted me to pass that on to people  
18 that --

19 You know, he wants to make it simple.  
20 They're going to have a few questions to ask, but  
21 really they just want to get to know the members.

22 CHAIRMAN RUSSELL: I'm sure Tom will try  
23 to coordinate that at the time that everyone is in  
24 town on the 27th.

25 MS. SHROPSHIRE: I just wanted to pass

1 that on, and I look forward to meeting everybody,  
2 too.

3 CHAIRMAN RUSSELL: Anything else? Did I  
4 get a motion to adjourn?

5 MS. KAISER: So moved.

6 CHAIRMAN RUSSELL: Is there a second?

7 MR. MILLER: I second.

8 CHAIRMAN RUSSELL: That must have been  
9 Joe.

10 MR. MILLER: No, Marv Miller.

11 CHAIRMAN RUSSELL: All those in favor,  
12 signify by saying aye.

13 (Response)

14 CHAIRMAN RUSSELL: We'll see you in a  
15 few weeks. Motion carries, and the meeting is  
16 adjourned.

17 (The proceedings were concluded  
18 at 9:36 am. )

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C E R T I F I C A T E

STATE OF MONTANA )

: SS.

COUNTY OF LEWIS & CLARK )

I, LAURIE CRUTCHER, RPR, Court Reporter,  
Notary Public in and for the County of Lewis &  
Clark, State of Montana, do hereby certify:

That the proceedings were taken before me at  
the time and place herein named; that the  
proceedings were reported by me in shorthand and  
transcribed using computer-aided transcription,  
and that the foregoing - 7 - pages contain a true  
record of the proceedings to the best of my  
ability.

IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed my notarial seal  
this                      day of                      , 2009.

LAURIE CRUTCHER, RPR  
Court Reporter - Notary Public  
My commission expires  
March 9, 2012.