

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of the Application of
Montana Alberta Tie Ltd. and MATL LLP. to Amend their
Certificate of Compliance under the Major Facility Siting Act.

On April 30, 2012 Montana Alberta Tie Ltd. and MATL LLP (collectively referred to as MATL) submitted an application to amend their Certificate of Compliance (the Certificate) issued by the Department of Environmental Quality (the Department) on October 22, 2008. The Certificate authorizes construction and operation of a transmission line originating at the existing NorthWestern Energy switchyard near Great Falls, Montana, and extending north to a substation to be constructed northeast of Lethbridge, Alberta. MATL's proposed amendment would change the language in the Certificate and Environmental Specifications to allow relocation of the approved transmission line in two areas.

The first area is located about ten miles east of Power, MT on property owned by John Allen and Deanna T. Burgmaier, Heurion Family Trust, and the State of Montana (Burgmaier Modification) in Section 33, T23N, R2E and Section 4, T22N, R2E. The Burgmaier Modification would modify the alignment for approximately 1.9 miles. MATL proposed this modification at the request of Mr. Burgmaier. The modification would eliminate diagonal crossing of lands that are currently enrolled in the Conservation Reserve Program (CRP). Should the landowner remove these lands from CRP in the future, the structures would be placed in a manner more compatible with cultivation activities. The Burgmaier Modification is depicted in Figure 1 attached to the Final Environmental Assessment.

The second area is located approximately ten miles east of Power, MT on property owned by Maurer Farms Inc., State of Montana, Kyle Burgmaier, Toney and Mary Lou Grossman, and Wilma M. Wheeler (Maurer Modification) in Sections 4, 5, 8, 9, 16, 17, 20, and 21, T23N, R2E. The Maurer Modification would relocate the approved transmission line for a distance of approximately 4.7 miles. MATL has proposed the Maurer Modification in response to a landowner's request to shift the transmission line further away from his residence and to avoid an area he classifies as a low-lying saline seep that he would prefer to remain undisturbed. The Maurer Modification is depicted in Figure 2 attached to the Final Environmental Assessment.

On May 10, 2012 the Department issued a Draft Environmental Assessment analyzing the amendment as proposed by MATL (Proposed Action). The Department also analyzed an alternative under which the approved location in the Certificate and Environmental Specifications would remain unchanged (No Action Alternative). Under the No Action Alternative, MATL would construct the transmission line within the corridor approved on October 22, 2008. The Department did not receive any comments on the Draft Environmental Assessment. The Department is issuing a Final Environmental Assessment contemporaneously with this decision document.

DEPARTMENT DECISION

Pursuant to Section 75-20-219(1), MCA, if the Department determines that the proposed change would result in a material increase in any environmental impact of the facility, or a substantial change in the location of all or a portion of the facility as set forth in the certificate, the Department is required to grant, deny or modify the amendment with conditions it considers appropriate. Under Section 75-20-219(2), MCA, if the Department determines that the proposed change in the facility would not result in a material increase in any environmental impact or a substantial change in the location of all or a portion of the facility as set forth in the certificate, the Department is required to automatically grant the amendment either as applied for or upon terms or conditions that the Department considers appropriate. Therefore, whether or not there is a material increase or a substantial change in the location of all or part of the facility, the Department has the authority to grant and condition its approval of the amendment.

When the proposed amendment is compared to the currently approved location, the Department has determined that, on balance, the proposed amendment would not result in a material increase in any environmental impact or a substantial change to a portion of the facility.

In regard to the proposed amendment as it pertains to the Burgmaier Modification, the Department has determined that the Burgmaier Modification could eliminate about six structures placed on a diagonal in land suitable for cultivation. The Burgmaier Modification would not materially increase impacts. While the Burgmaier Modification could result in greater impacts to soils and vegetation without the mitigation measures set forth in the Certificate of Compliance, the mitigation measures set forth in the Certificate of Compliance minimize these impacts. The Burgmaier Modification would allow construction of the transmission line in a location that is acceptable to the directly affected landowners. The No Action Alternative would not satisfy the landowner request that the transmission line be moved to remove the diagonal crossing of land suitable for cultivation.

The Maurer Modification would increase the distance between the facility and a residence and avoids the potential impact to the area classified by the landowner as a low-lying saline seep that the landowner would prefer to remain undisturbed. The Maurer Modification would not materially increase impacts. While the Maurer Modification could result in greater impacts to soils, vegetation, and cultural resources without the mitigation measures set forth in the Certificate of Compliance, the mitigation measures set forth in the Certificate of Compliance minimize these impacts. The Maurer Modification would allow construction of the transmission line in a location that is acceptable to the directly affected landowners. The No Action Alternative would not satisfy the landowner request to move the transmission line further away from a residence and avoid potential impacts to an area classified by the landowner as a low-lying saline seep that the landowner would prefer to remain undisturbed.

Therefore, the Department approves the Proposed Action as it pertains to the Burgmaier and Maurer Modifications. The approved location of the facility is changed as indicated in Figures 1 and 2 attached to the Final EA. DEQ will update and maintain in its files a topographic map having a scale of 1:24,000 showing section lines and the revised approved locations for the facility.

Conditions set forth in the Certificate of Compliance and Environmental Specifications and subsequent amendments remain in full force and effect.

A person aggrieved by the final decision of the Department on an application for amendment of a certificate may within 15 days appeal the decision to the Board of Environmental Review as provided in Section 75-20-223(2), MCA.

Dated this 24th day of May, 2012.



Richard H. Opper
Director
Department of Environmental Quality