

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 June 16, 2011 Montana Alberta Tie Ltd. and MATL LLP (collectively referred to as MATL) submitted an application to amend their Certificate of Compliance issued by the Department of Environmental Quality (the Department) on October 22, 2008. MATL's proposed amendment would change the language in the Certificate and Environmental Specifications to allow it relocate the approved location in two areas

On June 28, 2011 the Department issued an Environmental Assessment analyzing the proposed amendment (Proposed Action), and a No Action alternative (the existing approved location would remain the same).

Under MATL's proposed action the certificate amendment would allow modification of the location for the line in two areas: a 1.3-mile relocation roughly 8.7 miles east of Dutton, MT (T24N, R2E, sections 6, 7, and 8) and second 1- mile relocation about 6.5 miles northeast of Valier, MT (T30N, R4W, sections 5 and 8). Specifically MATL requested:

A. Diamond Valley South – Laubach Amendment:

At the Laubachs' request, the transmission line corridor would be modified from milepost 30/2 to 31/4 as depicted in Figure 1. This proposed alignment amendment shifts the transmission line away from a planned, future home site. This proposed alignment amendment also reduces the number of drainage crossings and reduces the potential impacts to wetlands and to wildlife habitat associated with unfarmed coulees.

B. Bullhead Coulee North - Swanson Amendment:

At the Swansons' request, the transmission line corridor would be modified from milepost 84/5 to 85/3 as depicted in Figure 2. This proposed alignment amendment allows for future pivot irrigation in the southeast quarter of Section 5 in T30N, R4W, by placing the alignment on property boundaries and/or established crop edges. This proposed alignment amendment also eliminates the need for a guyed structure in a cultivated field at milepost 85/3.

In addition, in its application for the amendment, MATL requested the following conditions be imposed:

“(1) If the Department approves the amendment and an appeal is timely filed under Section 75-20-223(2), MCA, by any person, then the amendment(s) shall be void and the approved location of the transmission line corridor shall be that set forth in the Certificate as issued on October 22, 2008.

(2) If the Department approves the amendment and the United States Department of Energy has not issued on or before August 17, 2011, a determination under 10 CFR 1021.314(c)(2)(iii) that no further NEPA documentation is required on account of the requested realignment of the transmission line corridor, then the amendment(s) shall be void and the approved location of the transmission line corridor shall be that set forth in the Certificate as issued on October 22, 2008.”

In its comment letter to the Draft EA, however, MATL withdrew its request for the first condition that would void the amendment if an appeal were filed.

Under the No-Action Alternative, the language and approved location in the Certificate and Environmental Specifications would remain unchanged. In this case MATL would construct the line within the corridor approved on October 22, 2008.

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 does not result in a material increase in any environmental impact or a substantial change to a portion of the facility. In regard to the Laubach amendment, impacts to the property owned by Ron and Debbie Laubach and Adam and Barbara Dahlman would be reduced. The existing corridor generally runs adjacent to the eastern border of Laubach's property. While a portion of the corridor is on the Laubach property, the majority of the corridor and the pole placements under the approved corridor are located on the Dahlman property. The Laubachs have requested that the impacts to an existing, although vacant, house site and hunting areas that are located in the northern portion of their property be avoided by relocating the approved transmission line corridor to the western border of their property. While this relocation would result in the placement of poles in a field cultivated by the Laubachs at their request, the poles (with the possible exception of one) that would have been placed in fields cultivated by the Dahlmans would be avoided. The amendment shifts approximately one mile of the transmission line about 0.5 of a mile to the west.

The Department acknowledges, however, that the amendment will move the transmission line closer to property owned by Jerry McRae than the currently approved location of the corridor. The relocation may increase the visual impacts to an area of his property that Mr. McRae uses for hunting and to a site on which Mr. McRae has expressed intent to build a house at some point in the future.

The Bullhead Coulee North amendment would allow for future development of a center-pivot irrigation system and move the line to better follow property and field boundaries. It is endorsed by all property owners involved and does not result in a material increase in any environmental impact or a substantial change to a portion of the facility. The corridor is wide enough to avoid additional crossings of Bullhead Coulee and avoids a known wetland area. The amendment shifts approximately one mile of the transmission line about 0.2 mile to the west.

The Department selects the Proposed Action with the following conditions:

- The approved location of the facility would be changed in the Diamond Valley South area as indicated in Figure 1 and the Bullhead Coulee North area in Figure 2. The Department 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.
- For the Diamond Valley South amendment, the following language from the Environmental Specifications (Appendix A, Land Use) would not apply: "Whenever reasonably possible, structures should be located along field boundaries." In addition, the west side and northern portion of the Diamond Valley South amendment would be entirely located on Ronald and Debbie Laubach's property in the E1/2 of Section 6 and 7 in T24N R2E, and outside the easement held by the United States Air Force (USAF) restricting above ground structures near its missile silo unless allowed by the USAF.

The Department declines to impose the condition that would void the amendment if the United States Department of Energy has not issued on or before August 17, 2011, a determination under 10 CFR 1021.314(c)(2)(iii) that no further NEPA documentation is required on account of the requested realignment of the transmission line corridor.

Conditions set forth in the Certificate of Compliance and amendment dated September 22, 2010 would remain in full force and effect.

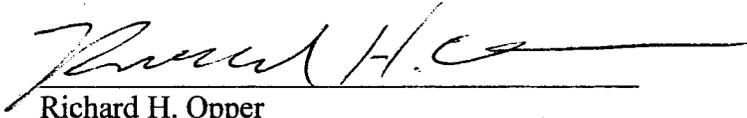
The No Action alternative was not selected because following the appeal period for the Certificate, new information has been received which indicates a landowner driven desire to further minimize the potential for unintentional impacts.

In conclusion, the Department conditionally approves MATL's application to amend its Certificate of Compliance as indicated above. All other provisions of MATL's amended

Certificate of Compliance including the Environmental Specifications and selected location remain in effect, unless they conflict with this Amendment.

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 22th day of July, 2011.

A handwritten signature in black ink, appearing to read "Richard H. Opper", written over a horizontal line.

Richard H. Opper

Director

Montana Department of Environmental Quality