

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 29, 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 to relocate the approved location on property owned by the estate of Shirley Salois, of which Larry Salois is the personal representative.

On July 11, 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 0.6 mile of the transmission line on the Salois property located approximately 1.5 miles southeast of Cut Bank, MT (T33N, R5W, Sections 17, 19 and 20). The transmission line corridor would be modified from milepost 102/3 to 103/1 on a southwest to northeast diagonal alignment as depicted in Figure 1 attached to the Final Environmental Assessment (EA). This proposed alignment amendment shifts the transmission line away from cultural features located on the Salois property onto cultivated land, reducing the potential for unintentional impacts to the cultural features. The proposed alignment amendment would address the landowner desire to further minimize the potential for unintentional impacts to a cultural site.

MATL has requested the following conditions to the proposed amendment:

“(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.”

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 amendment is compared to the currently approved location, the Department has determined that, on balance, the amendment does not result in a material increase in any environmental impact or a substantial change to a portion of the facility. The potential for unintentional impacts to the cultural site is reduced by moving the approved location to the east. The amendment modifying the approved location is sufficiently wide for the right-of-way to avoid an injection well. The oil waste land-farm is likely to be spanned. The change also better avoids a mapped wetland. While the new location is on land enrolled in the Conservation Reserve Program, the change is at the request of Larry Salois. The amendment shifts approximately 0.6 mile of the transmission line about 0.2 mile to the east.

The Department selects the Proposed Action with the following condition:

The approved location of the facility would be changed in the Salois area as indicated in Figure 1 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.

The Department declines to impose either of the conditions MATL proposed in its Application to Amend its Certificate.

Conditions set forth in the Certificate of Compliance and as subsequently amended would remain in full force and effect, except the specification requiring structures to be located along field boundaries whenever reasonably possible would not apply to the area addressed in this amendment.

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. The proposed changes in location would not significantly increase impacts and the amended location allows

MATL to construct the transmission line in a location that is acceptable to the directly affected landowner.

In conclusion, DEQ 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 4th day of August, 2011.

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

Richard H. Opper

Director

Montana Department of Environmental Quality