

Application to Amend Certificate of Compliance

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Applicants: Montana Alberta Tie Ltd. and MATL LLP, Co-Permittees

Project: Montana Alberta Tie 230 kV International Transmission Line

DEQ / EMB

Certificate: October 22, 2008, Certificate of Compliance; Montana Alberta Tie Ltd.

Date: August 11, 2010

Notice Dates: August 11 and 18, 2010 (Great Fall Tribune); August 11 and 18, 2010 (Cut Bank Pioneer Press); August 10 and 17, 2010 (Choteau Acantha); August 10 and 17, 2010 (Conrad Independent Observer)

The above-referenced Applicants (together "MATL") hereby request, under § 75-20-219, MCA, and ARM § 17.20.1801 *et. seq.*, to amend the above-referenced Certificate of Compliance ("Certificate"). The requested amendment, and the information required to support this request, are set out below and in the included materials.

1. Amendments Requested. MATL requests the following amendments to the Certificate.

A. *Certificate, Paragraph 3.G.), the fourth sentence of first full paragraph on page 9, should be amended as follows:*

No ~~construction~~ permanent structures would be allowed placed within a delineated 50 feet of a stream or wetland. Any construction or maintenance activity (including structure placement) that occurs within a 50 foot buffer zone around a delineated stream or wetland shall be conducted pursuant to the more environmentally protective of: (i) DEQ Environmental Specifications 2.11 and 3.2; (ii) any applicable water quality permit, decision, or order; or (iii) MATL's Proposed Environmental Protection Measures (MFA Certificate Attachment 1).

B. *Certificate, Paragraph 12 (p.13-14), should be amended as follows:*

~~Construction and operation of the transmission line does not require any air or water quality decision, opinion.~~ Prior to the start of construction, MATL shall obtain all necessary water quality decisions, opinions, or orders. Construction and operation of the transmission line does not require any air quality decision, opinion, or order.

C. *Certificate, Attachment 2, Section 2.11.17, should be amended as follows:*

2.11.17. To reduce the amount of sediment entering streams a strip of undisturbed ground or vegetation will be provided for 50 feet between areas of disturbance (such as road construction or tower construction) and wetlands, stream courses, and around first order or larger streams that have a well-defined stream course or aquatic or riparian vegetation, unless otherwise required by the LANDOWNER or authorized by the STATE INSPECTOR and managing agency. Buffer strip width is measured from the high waterline of a channel or wetland and will be determined by the STATE INSPECTOR. When braided streams with more than one discernable channel (ephemeral or permanent) are encountered, the high waterline of the outermost channel shall be used. In the event that vegetation cannot be left undisturbed, structural sediment containment,

approved by the STATE INSPECTOR, must be utilized ~~substituted~~ before soil-disturbing activity commences.

D. *Certificate, Attachment 2, Appendix A, the section labeled "Wetlands", should be amended as follows:*

MATL would delineate wetlands within 500 feet of the alignment of the Agency selected location and ~~no permanent structures construction activities would not be allowed placed within delineated 50 feet of streams or wetlands.~~ Any construction or maintenance (including structure placement) that occurs within a 50 foot buffer zone around a delineated stream or wetland shall be conducted pursuant to the more environmentally protective of: (i) DEQ Environmental Specifications 2.11 and 3.2; (ii) any applicable water quality permit, decision, or order; or (iii) MATL's Environmental Specifications.

2. Public Notice of Amendment Request. Proof of notice of this application, given in accordance with § 75-20-231(1), MCA, is provided under **Tab A**.

3. Background of and Reasons For Amendment Request. This request is intended to provide clarification of, and resolve inconsistencies within, the Certificate's language regarding how activities associated with the construction and maintenance of the Montana Alberta Tie Line Project ("Project") can occur on or near a number of wetlands within the DEQ-approved construction corridor. It is also intended to make the conditions governing the construction and maintenance of the Line consistent with the environmental analysis that occurred in the FEIS. A list (by milepost number) of the wetlands that are known at this time¹ to be affected by this amendment request, along with any specific information MATL has on those wetlands, is set out under **Tab B**.

A. *Existing Certificate Language.* The Certificate contains language pertaining to the question of construction and maintenance activities on or near wetlands in several different places, which are unclear and may be inconsistent.

i. In "MATL's Proposed Environmental Protection Measures" (Attachment 1 to the Certificate) the following language sets out how MATL intended to address wetlands:

Unavoidable wetland impacts would require permits from U.S. Army Corps of Engineers to comply with Section 404 of the Clean Water Act.

* * * * *

Whenever possible, placement of new structures and associated construction activities would occur out of wetland boundaries.

These stipulations contemplate unavoidable, temporary and limited impacts, as well as the permitting requirements in such cases.

¹ To date, certain landowners have denied MATL access to a number of parcels on the Marias South segment. When access is secured, additional wetlands are anticipated to be identified.

ii. The following language is set out in ¶ 3.G. (p. 9) of the Certificate:

The transmission line would cross streams listed by DEQ as not attaining designated beneficial uses of water (Lake Creek, Teton River, Pondera Coulee, Dry Fork of the Marias River, Marias River, and Old Maids Coulee). Minor short-term adverse impacts to surface water quality could occur by temporarily increasing sources of sediment from the initiation of construction to successful re-vegetation of the disturbed areas. This impact would be mitigated by avoiding disturbance of water and riparian areas and by implementing a Storm Water Pollution Prevention Plan to reduce sediment transport. No construction would be allowed within 50 feet of a stream or wetland. MATL is required to submit a bond to ensure that areas disturbed during construction are reclaimed.

This may be interpreted in an inconsistent manner to prohibit any disturbance, temporary or limited, notwithstanding any state or federal permit or the other environmental conditions in the Certificate.

iii. Sections 2.11.1 through 2.11.23 ("EROSION AND SEDIMENT CONTROL") and 3.2.1 through 3.2.15 ("RESTORATION, RECLAMATION, AND REVEGETATION") in the DEQ Environmental Specifications (Attachment 2 to the Certificate) address in specific detail how activities on and in wetlands should occur and what is required of MATL by way of reclamation activities post-construction. Of particular note is that these two, more specific, sections clearly contemplate temporary and limited construction activities taking place in and near wetlands. Specifically, DEQ Specification Section 2.11.17 provides flexibility for such activities when required by the LANDOWNER or authorized by the STATE INSPECTOR.

iv. The following language is set out in Appendix A (Section labeled "Wetlands") in the "DEQ Environmental Specifications":

MATL would delineate wetlands within 500 feet of the alignment of the Agency selected location and construction activities would not be allowed within 50 feet of wetlands.

v. Finding 3 (p. 4) of the Certificate provides language coordinating the above provisions:

Construction and operation of the transmission line as proposed with modifications made by DEQ minimizes adverse environmental impacts considering the state of available technology and the nature and economics of the various alternatives. Measures proposed by MATL to minimize adverse environmental impacts are set forth in Attachment 1 that is incorporated by reference as enforceable provisions of the Certificate of Compliance. Environmental specifications developed by DEQ to minimize adverse environmental impacts are set forth in Attachment 2 that is incorporated by reference as enforceable provisions of this Certificate of Compliance. Should there be a conflict between the measures developed by MATL and the environmental specifications developed by DEQ, the more environmentally protective provision would apply.

vi. The "INTRODUCTION" to the DEQ Specifications also addresses the relationship between the DEQ standards and the MATL standards, as follows:

Appendices A through Q refer to the site-specific concerns and areas that apply for a specific project. These addenda, as needed, will be prepared by DEQ working in consultation with the OWNER prior to the start of construction. If these specifications conflict with MATL's proposal (WAPA Standard 13), [sic] more environmentally protective of the two would apply.

B. MATL's Interpretation of the Certificate. The above-quoted language in the Certificate and its attachments contains a number of inconsistencies which can best be resolved by reference to the analysis in the FEIS. On the one hand, DEQ's specifications in some instances may be interpreted to prohibit any construction or maintenance activity whatsoever within 50 feet of a wetland. On the other hand, both MATL's Proposed Environmental Protection Measures and the DEQ Environmental Specifications, Sections 2.11 and 3.2, clearly contemplate that necessary, but limited and specifically controlled, activities can and will take place in wetlands and the 50-foot buffer zone, subject to the prior receipt of available regulatory permits (*e.g.* CWA §§ 318 and 404) specifically applicable to those activities.

Several things have become clear as MATL has completed final design and is nearing the commencement of construction.

i. Even utilizing best management practices it is unrealistic and unworkable to avoid all construction and transportation activities within the 50-foot buffer zone of the wetlands affected by the Agency Preferred Alternative (Alternative 4). In one case (Hay Lake) it is physically impossible to span the extraordinarily wide delineated wetland in the assigned route without placing at least one structure within the 50-foot buffer zone. As final design unfolds on the remainder of the route, additional issues requiring moderate and prudent flexibility may arise. Thus, if applied restrictively, the above-quoted specifications are inconsistent with DEQ's finding that "the mitigation measures included in the environmental specifications for the project (Attachment 2) were considered in DEQ's determination that the selected location and design for the transmission line minimizes the net present value of costs among alternatives" (Certificate, Finding 3. C.).

ii. In those areas where wetlands or the 50-foot buffer zone must be crossed or entered for structure placement, construction, or maintenance activities, the involved activities are easily mitigated and routinely authorized under the Montana Water Quality Act § 318 (by DEQ) and CWA § 404 (by the Corp of Engineers which it has already received in respect of certain wetland crossings). The specific status of the separate regulatory permitting of these activities is addressed in Paragraph 3.E., below.

iii. In a number of instances the "drive-around" or "work-around" necessary to avoid crossing a wetland may be more environmentally harmful than the wetland crossing itself, as it may involve several additional miles of equipment transport and new access roads. At a minimum, the extra mileage associated with long "work-around" routes may create greater land disturbances, greater impacts to farming and ranching operations, greater erosion, higher levels of dust and emissions, an increased threat of spreading noxious weeds, and aggravated landowner relations.

Because of the above factors, MATL has adopted an interpretation of the Certificate that utilizes the coordinating language quoted in Paragraphs *A. v.* and *vi.*, above, and which allows the MATL Environmental Specifications to apply where it is clear, on a case-by-case basis, that the environmental effects of the "drive-around" or "work-around" of the involved wetland or buffer zone appear to be more adverse than the environmental harm associated with entering and/or crossing the involved wetland or buffer zone. MATL believes that this interpretation is consistent with the Certificate and in particular the NEPA/MEPA analysis set out in the FEIS, provides a reasoned way to reconcile the above-quoted provisions, and allows the Project to proceed on a reasonable basis and give effect to the Certificate and the finding therein that the Project is in the public interest.

C. DEQ's Application of Certificate. Based on its interpretation of the Certificate as outlined above, MATL identified and brought to DEQ a number of wetlands in the Maris North segment of the Project (Marias Substation to the International boundary) for compliance review. As part of that

compliance review, a field inspection of the identified wetlands was conducted on April 8, 2010, involving representatives from AMEC, Rocky Mountain Contractors, and DEQ. As a result of that field investigation several of the identified wetlands were agreed to not be candidates for compliance review because crossing or entering was infeasible in all events. The others were considered appropriate candidates, and the field inspection focused on the potential activities in or near the wetland as well as the potential issues associated with the alternative drive- or work-around solutions.

As of the date of this Application, MATL has been informed that, of the wetlands that were considered to be appropriate candidates for a compliance review to determine the propriety of applying the MATL wetland specification, DEQ would only allow the MATL specification to be applied to a very small number of situations. This is especially problematic for MATL inasmuch as the United States Army Corps of Engineers has already issued a 404 permit for a number of the areas excluded by DEQ, and in fact has indicated to MATL that it didn't even consider some of the involved areas to be wetlands *at all*. Thus in respect to those areas it appears that the only impediment to reasonable and controlled construction activities is the DEQ Specification, referenced above.

In MATL's view, this implementation of the Certificate by DEQ is unduly restrictive and is not consistent with the analysis in the FEIS that served as the basis for the Certificate. MATL intends to continue to work with DEQ on the situations referenced above and hopes to be able to reach a reasonable resolution to the same. However, MATL is also concerned that, because the number of wetlands in the Maris South segment of the Project is larger, this *ad hoc* approach will not prove workable for that portion of the Project. As a consequence, MATL believes this amendment is necessary to clarify, make more consistent and predictable, and make more prudent and reasonable in practice, the implementation of the Certificate.

D. Wetland Analysis in FEIS. The FEIS is clear that construction and maintenance activities in and near wetlands were studied, were disclosed to the public and to the decision maker, and were expressly contemplated. MATL will review that discussion below.

First, after an introductory discussion regarding the regulatory and scientific setting of the wetland analysis (pp. 3-68 through 3-74), the FEIS began its analysis of the environmental impact of the project in respect to wetlands with the following statement:

This section describes the types of impacts that could occur and effects of these impacts on wetland resources specifically. **Table 2.3-4** addresses best management practices that MATL would implement *to reduce the potential impacts to wetland* and surface water resources.

FEIS Ch. 3.6.3, p. 3-74 (emphasis added); *see also* p. 3-75 ("MATL would also *reduce or avoid impacts to wetlands* by implementing mitigation, avoidance, or other environmental protections measures (**Table 2.3-4**)" (emphasis added)).

Table 2.3-4 of the FEIS, cited in both of the above-quoted passages describing MATL's proposed approach to the wetland issue, sets out that approach in further detail. Under the heading "Environmental Protection Measures and Monitoring" MATL indicated that:

Unavoidable wetland impacts would require permits from U.S. Army Corps of Engineers to comply with Section 404 of the Clean Water Act.

Under the heading "Locations (if known)" Table 2.3-4 states that:

See **Appendix E** of the March 2007 documents for a description of drainages and wetland areas that would be avoided, if possible. Any *unavoidable areas* would be identified by milepost during the final design phase. (Emphasis added).

Finally, Table 2.3-4 specifies that the time period during which this specification would apply as being: "[d]uring design and construction."

Further into its analysis of the specific impacts of the project on wetland resources, the FEIS explained that:

In order to assess potential impacts of the MATL transmission line project to wetlands, typical construction and operational practices used in the utility industry were reviewed. Potential impacts were evaluated in association with the need to construct access roads and in relationship with the methods used and engineering constraints involved with spanning over and constructing around wetland crossings.

FEIS, Ch. 3.6.3, p. 3-76. Based on this foundation (*i.e.* MATL's proposed approach and the "typical construction and operational practices used in the utility industry"), the FEIS discussed the potential environmental impacts from construction activities in or near wetlands in numerous places. For example, in its discussion of Alternative 2, the FEIS explains:

Stream crossing construction activities (such as pole placement, road construction, and staging areas for construction) could potentially take place in either a localized area, or parallel and adjacent to a stream. Construction activities in flowing or standing water would result in the greatest impact, and would be avoided. Minor short-term sediment impacts would continue until reclamation was complete and the surface was revegetated. Minor long-term adverse impacts to surface water quality could occur if temporary roads near water crossings were constructed and remained in use after project construction activities were complete.

FEIS, Ch. 3.5.3.2 (p. 3-64). The above passage regarding Alternative 2 is especially appropriate to note for another reason. Alternative 2 was MATL's preferred route, and none of the deviations from that route directed by DEQ in FEIS were made to avoid wetlands (although some of the deviations that were made in Alternative 4 for other reasons had the effect of implicating more wetlands than Alternative 2).

The comparison of the alternative routing options in regards to wetlands primarily focused on the differing numbers and types of wetlands affected by each. However, common to all was the explanation that:

Potential impacts to wetlands associated with the construction and operation of the MATL 230-kV transmission line project include:

- alterations to the wetland hydrology,
- alterations to the wetland plant communities, and
- loss of wetlands due to filling or sedimentation.

Alterations to the wetland plant community are also most likely to occur during the transmission line construction phase. A change in the composition of the wetland plant community may be

associated with and result from an alteration to the wetland hydrology, or this impact may be unrelated. A wetland plant community may be physically altered by mechanical disturbance during the construction activities, or the vegetation could be only temporarily trampled from parking or driving across these areas.

FEIS, Ch. 3.6.3, p. 3-75. Similarly, in the FEIS discussion focused on riparian vegetation, the public and the decision maker were provided with the following analysis:

Rangeland vegetation, such as grassland, improved pasture, seeded grasslands, shrub land, badland, and riparian and wetland areas, would be removed by the construction of access roads and structures and at construction staging areas. Impacts to riparian and wetland areas would be minimal as these areas would only be disturbed *when absolutely necessary*.

* * * * *

DEQ would apply its environmental specifications (Appendix F) to the project. The specifications include the requirement that MATL avoid placing poles or roads in designated 100-year floodplains. MATL stated that it would avoid riparian vegetation by completely spanning these areas *to the maximum extent possible*.

FEIS, Ch. 3.7.3.2, pp. 3-89 and -91 (emphasis added).

Of similar effect is Table 3.6-3 in the FEIS, which identifies potential impact to 71.9 acres of wetland within the 500 foot alignment of Alternative 2. The associated text reads:

In total, about 71.9 acres of wetlands have been mapped within the 500-foot wide Alternative 2 alignment. The largest wetland crossing within the Alternative 2 500-foot alignment would be approximately 510 feet. All but one wetland could be spanned assuming a typical span length of 800 feet. However, one angle structure would be located within Black Horse Lake.

FEIS, Ch. 3.6.3.2, p. 3-77. The notation that a structure would be required "within Black Horse Lake" is clear indication that some, otherwise unavoidable, impacts to wetlands were both disclosed to the public and the decision maker, and were not viewed in the FEIS as being absolutely prohibited.

The above passages are not the only ones in the FEIS where wetlands were discussed, but are just a representative sample. They clearly illustrate that the impacts and mitigation of potential temporary disturbance arising from construction activities in or near wetlands was considered fully and analyzed in the FEIS, was disclosed to the public and the decision maker, and does not need to be redone in connection with this Application. Further, the analysis that was in fact done was on the basis and in the context of the MATL-proposed specification and industry standard construction practices. In both cases wetlands are avoided where possible, but where there were "unavoidable" crossings there are industry-standard measures that can be used to manage the impact and comply with all relevant regulatory requirements by obtaining the relevant permit beforehand.

The above discussion poses the next question, which is how the 50-foot buffer zone and the "no construction" condition in the Certificate came about, and in particular what problem (or problems) those stipulations were attempting to remedy. The answer to these two questions appears in the public comments and DEQ's responses.

As a general matter, the issue of wetlands and potential wetland crossings were not a significant concern with the affected public and commentators. Of the 900-plus comments filed on the combined Federal DEIS/State SEIS only one, from the United States Environmental Protection Agency (an agency

that does not have regulatory jurisdiction over the wetlands involved with this Project), discussed wetlands in any detail. In relevant part, EPA commented:

We recommend that there be a strict prohibition of placement of transmission pole structures in wetlands, rather than just avoiding placement in wetlands "whenever possible," and that a wetland buffer zone be used to avoid even inadvertent construction impacts to wetland (e.g. 50 foot wetland buffer zone). We also recommend that wetland be flagged on the ground to facilitate contractor avoidance, and inadvertent wetland impacts. If any wetlands are to be impacted the extent of impacts should be more clearly estimated and disclosed.

FEIS, Vol. 2, comment 882, p. 353. At the time and to the present, what MATL understood EPA to be suggesting was two things: (1) that the placement of *permanent* structures in delineated wetlands be absolutely prohibited rather than conditionally allowed; and (2) that as a control measure to avoid "inadvertent" impacts to delineated wetlands, a buffer zone be created within which that prohibition would apply. MATL never believed EPA to be proposing an absolute prohibition on all *temporary and limited construction* activities within the buffer zone, only that no *permanent* structures be placed in that zone as a control measure in order to help in avoiding "inadvertent" wetland impacts from activities associated with the construction and maintenance of structures at those sites. In other words, EPA proposed the buffer as a means to help avoid "inadvertent" impacts, not as an end in and of itself. This is illustrated in the same passage where EPA also acknowledged that there would be situations where advertent (*i.e.* intentional) activities in the buffer zone would need to occur. In that event EPA simply proposed that those impacts be quantified and disclosed, which was done. In the end EPA not suggest or request that all construction activities be categorically prohibited within the buffer zone.

DEQ's responses to EPA's comments indicate that at the time DEQ understood EPA's comments in generally the same manner as MATL. Those responses clearly indicate that construction activities near or in wetlands or the then-unadopted buffer zone were known, disclosed, analyzed, and indeed expected. For example, in DEQ's Response to Comments Nos. 905 to 913, DEQ explained that:

MATL has stated that its goal is to avoid impacts to wetland by avoiding placement of any structure within a jurisdictional wetland. MATL would use construction buffers² to eliminate any and all, including inadvertent, impacts to wetland or other waters of the United States. It is ***currently expected*** that the project could be completed without any direct disturbances to streams and wetlands. Thus no compensatory mitigation would be needed. If, however, ***any disturbances were found to be unavoidable, the applicant would be required to comply with all applicable regulatory requirements. If, during construction, a site specific wetland impact issue arises, the U.S. Army Corps of Engineers would be contacted to assure compliance with Section 404 of the Clean Water Act.*** Additional mitigation measures to help minimize the potential unavoidable construction-related impacts to wetlands would then be required for MATL and the construction contractors under the U.S. Army Corps of Engineers' Nationwide #12 Permit (Utilities Line Activities).

² MATL believes the use of the terminology "construction buffers" in this sentence was not to the 50-foot spatial buffer that had been proposed by EPA, but rather to the types of construction techniques and physical controls (e.g. straw wattles, silt fences, etc.) that are industry standard. MATL believes that is the case for two reasons. First, in that sentence DEQ is characterizing MATL's position, not EPA's. MATL did not propose or agree to a total prohibition of construction activities or structure placement in and near wetlands, and to the extent this sentence attributes such a commitment to MATL it was in error. Second, if viewed narrowly and in isolation, this phrase is inconsistent with the remainder of the discussion responding to EPA's comments.

If work in streams or wetlands is necessary, the measures listed in sections 2.11.5, 2.11.6, and 2.11.9 of the revised draft Environmental Specifications in Appendix F would then become conditions to the Certificate of Compliance if it is approved.

FEIS, Vol. 2, Response 905 to 913, p. 362 (emphasis added). In the concluding paragraph of DEQ's response to EPA's comment, DEQ explained what it already had done and potentially might do in response to EPA's Comments:

The draft Environmental Specifications (Appendix F) have been revised; they would (if adopted), require delineation of wetlands within 250 feet of the approved location, prohibit access through wetlands, and require that all wetlands be spanned. Additionally, the agencies are considering requiring a 50-foot buffer zone around wetlands within which no disturbance would be allowed, and the draft Environmental Specifications have been revised to include this possible requirement.

FEIS, Vol. 2, Response 905 to 913, p. 363 (emphasis added).

When issued, the Certificate clearly stated a requirement to delineate wetlands within the 500 foot corridor, to require that wetlands be spanned wherever possible, and included a 50-foot buffer zone. The Certificate does not, however, explicitly prohibit access through wetlands with the same clear intent as suggested in the FEIS response quoted above, which leads MATL to believe a strict prohibition was not intended. In fact, the connection between the FEIS and the Certificate is muddled rather than clarified by the inconsistency in terminology between the two documents. Rather than stating that no "*disturbance*" would be allowed within the buffer zone as stated in the FEIS response, the Certificate states that no "*construction*" would be allowed. A "disturbance" could range from short-term, temporary impacts during construction, to a permanent impact from placement of a pole within the buffer. "Construction," on the other hand, would in MATL's view imply a direct impact from the placement of some physical element of the project (a pole or a permanent access road, for example) within the buffer. Based on this interpretation, a prohibition of construction access across wetlands, and implicitly the buffer, was a factor made known to the public and the decision maker, but not specifically included as a final condition of the Certificate.

As to the placement of structures in the buffer (or even wetlands, for that matter), what is important to note is that almost all of the remaining environmental analysis in the FEIS and comments clearly, and realistically, noted that there would be occasions where the placement of structures *even in delineated wetlands* could not be avoided (at least unless the "no action" alternative were selected). That discussion indicated that in such an event alternative, industry-standard practices and regulatory schemes (i.e. § 404, § 318) would be used to regulate the activity and control impacts. The fact that the FEIS or Certificate did not make any finding or contain any discussion that would evidence that DEQ was making a reasoned, record-based decision that the reasonable and realistic approach discussed in the FEIS was being rejected in favor of a categorical prohibition suggested in the comments, and that such categorical prohibition was tied to and necessary to satisfy some specific requirement of the Major Facility Siting Act, suggests that this language in the Certificate was inadvertent or otherwise not correct.

Accordingly, this amendment request is, in MATL's view, simply one that is needed to reconcile inconsistent language in the Certificate and to do so in a manner that makes the Certificate accurately reflect the analysis, assumptions, and activities discussed in the FEIS and disclosed to the public and the decision maker. It is also necessary to give effect to the Certificate and its finding that the Project is in the public interest -- a finding and an authorization which may otherwise be made substantially less valuable if this amendment were not to be adopted.

E. Status of CWA Permitting of Wetland Crossings. MATL has submitted a request for a Nationwide 33 clearance of temporary construction impacts to 10 wetlands in the Marias North section of the Project. Upon further review with the Army Corps of Engineers (USACE), it was determined that three wetlands would be physically impractical to construct across, and another two could be crossed with no wetland impact, leaving five wetlands needing review and approval. On that basis MATL proceeded to secure a determination from the USACE under CWA § 404 that the wetland activities and crossings associated with the Project fall within the scope of a nationwide permit and do not need additional analysis or individual regulatory review. The USACE granted approval on May 21, 2010. A copy of that determination is contained at **Tab C**.

4. Requirements. In respect to the issues addressed in the application and the FEIS, the minimum filing requirements set out in ARM § 17.20.801 *et. seq* and DEQ MFSa Circular 2 were satisfied in MATL's prior filings in respect to the Certificate, which to the extent necessary are incorporated herein by this reference. Pursuant to ARM § 17.20.802 and .803, twenty (20) copies of this application are submitted in loose-leaf format.

5. The Requested Amendment Satisfies the Statutory Criteria. ARM § 17.20.1801 sets out the criteria for determining whether to grant or deny an amendment request in four subparts. Each of these subparts will be addressed below.

A. The amendments do not constitute a change in the location or design of the Line that could reasonably be expected to result in a material increase in any environmental impact, and in practice, could potentially decrease environmental impacts.

As discussed above, the potential impacts to wetlands based on industry-standard construction activities and the MATL-proposed wetland specification were extensively analyzed and disclosed in the FEIS. What is contemplated in this amendment request is that the Certificate language be revised to accurately reflect that analysis. Accordingly, and judged against the framework of the FEIS, no material increase in environmental impact will occur, as that impact was already fully assessed and contemplated therein. For the sake of clarity, no permanent structures will be placed in delineated wetlands or streams, and all construction activities in wetlands or the buffer zone will be governed by the more environmentally protective of: (i) DEQ Environmental Specifications 2.11 and 3.2; (ii) any applicable water quality permit, decision, or order; or (iii) MATL's Proposed Environmental Protection Measures (MFSa Certificate Attachment 1).

B. The amendments do not constitute a change in the location or design of the Line that could reasonably be expected to result in impacts to new geographic areas or human, animal, or plant populations that were not evaluated prior to the issuance of the certificate.

As discussed above, the issue of wetlands was addressed in the FEIS and was a matter which generated only one agency comment and no general public comment. No new areas or resources are involved in this request, and all relevant issues have already been evaluated.

C. The amendments do not constitute a change in the location or design of the Line affecting compliance with a condition of the Certificate.

As discussed above, the purpose of the amendment is to clarify inconsistent and ambiguous language in the Certificate, give full effect to the analysis and intent of the FEIS and then assure full compliance with the same. No change in the location or design of the Line affecting compliance with a condition of the Certificate is involved.

D. The amendments do not constitute a change in the location or design of the Line that would materially change the basis of any finding required by subchapter 16.

No finding in the Certificate assumed or found that the specific restrictions in ¶ 3.G. (p. 9) and Appendix A were necessary to DEQ's determination that the requirements of § 75-20-301, MCA were met. This amendment thus will not materially change the basis of any of the findings in the Certificate.

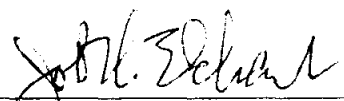
6. Conclusion. The proposed amendments do not result in any material increase in the environmental impact of the Project beyond what was analyzed in the FEIS and disclosed to the public and the decision maker, and simply reconcile inconsistent language in the Certificate consistent with its overall intent. Under § 75-20-219(2), MCA, DEQ should accordingly, and "automatically", grant the requested amendments.

DATED this 11th day of August, 2010.

Montana Alberta Tie Ltd.

Johan van't Hof
CEO/Director

**MATL LLP, by Montana Alberta Tie
US Holdings GP Inc., its general
partner**



John Etchart
Principal Executive Officer/Director

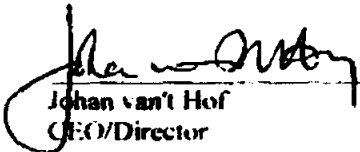
D. The amendments do not constitute a change in the location or design of the Line that would materially change the basis of any finding required by subchapter 16.

No finding in the Certificate assumed or found that the specific restrictions in § 3.G. (p. 9) and Appendix A were necessary to DEQ's determination that the requirements of § 75-20-301, MCA were met. This amendment thus will not materially change the basis of any of the findings in the Certificate.

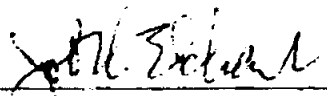
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Montana Alberta Tie Ltd.


Johan van't Hof
CEO/Director

**MATL LLP, by Montana Alberta Tie
US Holdings GP Inc., its general
partner**


John Eichart
Principal Executive Officer/Director

CERTIFICATE OF SERVICE

This is to certify that on August 11, 2010, I, Lisa Gallegos-Thompson, placed in the United State Mail, postage prepaid, a copy of the attached "Public Notice" to all active parties in Montana Board of Environmental Review Docket Nos. MFS-019, MFS-020, and MFS-021, as listed below:

Mr. G. Steven Brown
Power Block Building, Ste. 4-0
7 West 6th Avenue
Helena, MT 59601

Bradley Dugdale
P.O. Box 7152
Havre, MT 59501

Chris Stephens
2340 17 Rd. NE.
Dutton, MT 59433

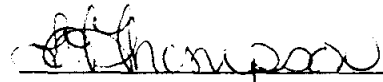
Norman Grosfield
Grosfield Law Firm
P.O. Box 5015
Helena, MT 59604-5015

Katrina Wilson Martin
1720 24th Lane NE
Dutton, MT 59433

Jerry McRae
1830 19th Lane NE
Dutton, MT 59433

Michael & Cindy Koenig
319 Second Avenue
Conrad, MT 59425

Donald & Evelyn Koenig
540 Healy Spring Road
Conrad, MT 59425



Lisa Gallegos-Thompson, CP

Incent Falls Tribune
Aug. 11, 2010

PUBLIC NOTICE

Pursuant to Section 75-20-219, MCA, ~~Montana~~ ~~Alberta Tie Ltd. and MATL LLP (together MATL)~~ give notice that on August 11, 2010 they will file with the Montana Department of Environmental Quality (DEQ) an application to amend the October 22, 2008 Certificate of Compliance relating to the Montana Alberta Tie International Transmission Line Project, as follows (language proposed to be deleted is interlined, language proposed to be added is underlined):

A. Certificate, Paragraph 3.G., the fourth sentence of first full paragraph on page 9, should be amended as follows:

No construction or maintenance structures would be allowed ~~placed~~ within a delineated ~~50-foot~~ stream or wetland. Any construction or maintenance activity (including structure placement) that occurs within a 50 foot buffer zone around a delineated stream or wetland shall be conducted pursuant to the more environmentally protective of: (i) DEQ Environmental Specifications 2.1 and 2.3; (ii) any applicable water quality permit, decision, or order; or (iii) MATL's Project Environmental Protection Measures (MESA Certificate Attachment 1).

B. Certificate, Paragraph 12 (p.13-14), should be amended as follows:

Construction and operation of the transmission line does not require any state or water quality decision, order. Prior to the start of construction, MATL shall obtain all necessary water quality decisions, opinions, or orders. Construction and operation of the transmission line does not require any water quality decision, opinion, or order. ~~Section 2.11.17, should be amended as follows:~~

2.11.17. To reduce the amount of sediment entering streams a strip of ~~undisturbed ground or vegetation~~ shall be provided for 50 feet between areas of disturbance (such as road construction or tower construction) and wetlands, stream courses, and around first order or larger streams that have a well-defined stream course or aquatic or riparian vegetation, unless otherwise required by the LANDOWNER or authorized by the STATE INSPECTOR and managing agency. Buffer strip width is measured from the high waterline of a channel or wetland and will be determined by the STATE INSPECTOR. When braided streams with more than one discernable channel (ephemeral or permanent) are encountered, the high water line of the outermost channel shall be used. In the event that vegetation cannot be left undisturbed, structural sediment containment approved by the STATE INSPECTOR, must be utilized ~~substituted~~ before soil-disturbing activity commences.

D. Certificate, Attachment 2 Appendix A, the section labeled "Wetlands", should be amended as follows:

MATL would delineate wetlands within 500 feet of the alignment of the Agency selected location and no permanent structures construction activities would not be allowed placed within delineated ~~50-foot~~ streams or wetlands. Any construction or maintenance (including structure placement) that occurs within a 50 foot buffer zone around a delineated stream or wetland shall be conducted pursuant to the more environmentally protective of: (i) DEQ Environmental Specifications 2.1 and 2.3; (ii) any applicable water quality permit, decision, or order; or (iii) MATL's Environmental Specifications.

A full copy of MATL's application is available at www.matl.ca, or by calling (406) 443-6430. A copy of the Certificate of Compliance is available on the DEQ's website at: <http://www.deq.mt.gov>.

MESA/MATL/DEQ
Pursuant to Section 75-20-219, MCA, DEQ must make a determination on MATL's request within 30 days of the date of this notice. Comments on the application submitted by the public and otherwise affected parties must be received by DEQ by close of business on August 25, 2010. Comments on the application may be submitted by mail to Tom Ring, DEQ Environmental Management Bureau, P.O. Box 200901, Helena, MT 59620-0901, or electronically at trine@mt.gov.
Montana Alberta Tie Ltd./MATL LLP
38 West 14th, Suite 204
Helena, Montana, 59601
(406) 443-6430

Cut Bank Pioneer Press
Aug 11, 2010

PUBLIC NOTICE

Pursuant to Section 75-20-213(1), MCA, co-permittees Montana Alberta Tie Ltd. and MATL (together MATL) give notice that on August 11, 2010 they will file with the Montana Department of Environmental Quality (DEQ) an application to amend the October 22, 2008 Certificate of Compliance relating to the Montana Alberta Tie International Transmission Line Project, as follows (language proposed to be deleted is interlined, language proposed to be added is underlined):

A. *Certificate, Paragraph 3.G.*, the fourth sentence of first full paragraph on page 9, should be amended as follows:

No ~~construction~~ permanent structures would be ~~allowed~~ placed within a delineated ~~50-foot-of-a~~ stream or wetland. Any construction or maintenance activity (including structure placement) that occurs within a 50 foot buffer zone around a delineated stream or wetland shall be conducted pursuant to the more environmentally protective of: (i) DEQ Environmental Specifications 2.11 and 3.2; (ii) any applicable water quality permit, decision, or order; or (iii) MATL's Proposed Environmental Protection Measures (MESA Certificate Attachment 1).

B. *Certificate, Paragraph 12 (p.13-14)*, should be amended as follows:

~~Construction and operation of the transmission line does not require any air or water quality decision, opinion.~~ Prior to the start of construction, MATL shall obtain all necessary water quality decisions, opinions, or orders. Construction and operation of the transmission line does not require any air quality decision, opinion, or order.

C. *Certificate, Attachment 2, Section 2.11.17*, should be amended as follows:

2.11.17. To reduce the amount of sediment entering streams a strip of undisturbed ground or vegetation will be provided for 50 feet between areas of disturbance (such as road construction or tower construction) and wetlands, stream courses, and around first order or larger streams that have a well-defined stream course or aquatic or riparian vegetation, unless otherwise required by the LANDOWNER or authorized by the STATE INSPECTOR and managing agency. Buffer strip width is measured from the high waterline of a channel or wetland and will be determined by the STATE IN-

SPECTOR. When braided streams with more than one discernable channel (ephemeral or permanent) are encountered, the high water line of the outermost channel shall be used. In the event that vegetation cannot be left undisturbed, structural sediment containment, approved by the STATE INSPECTOR, must be ~~utilized~~ substituted before soil-disturbing activity commences.

D. *Certificate, Attachment 2, Appendix A, the section labeled "Wetlands"*, should be amended as follows:

MATL would delineate wetlands within 500 feet of the alignment of the Agency selected location and ~~no permanent structures construction activities would not be allowed~~ placed within ~~delineated 50-foot-of~~ streams or wetlands. Any construction or maintenance (including structure placement) that occurs within a 50 foot buffer zone around a delineated stream or wetland shall be conducted pursuant to the more environmentally protective of: (i) DEQ Environmental Specifications 2.11 and 3.2; (ii) any applicable water quality permit, decision, or order; or (iii) MATL's Environmental Specifications.

A full copy of MATL's application is available at www.matl.ca, or by calling (406) 443-6430. A copy of the Certificate of Compliance is available on the DEQ's website at: <http://www.deq.mt.gov/MFS/MATL.mcp>

Pursuant to Section 75-20-219, MCA, DEQ must make a determination on MATL's request within 30 days of the date of this notice. Comments on the application submitted by the public and otherwise affected parties must be received by DEQ by close of business on August 25, 2010. Comments on the application may be submitted by mail to Tom Ring, DEQ Environmental Management Bureau, P.O. Box 200901, Helena, MT 59620-0901, or electronically at tring@mt.gov.

**Montana Alberta Tie
Ltd./MATL LLP
30 West 14th, Suite 204
Helena, Montana, 59601
(406) 443-6430**

Publish: Aug. 11, 18, 2010

NOTES!

Many Thanks!

another "Out" of neighbors and spirit wonderful were free to have generous donations to the Pure & Shari Gerald organize a press Border Council an FBI highway United vision will up and would person, worth, anger, huma, Sandy Jamey, nessa, swim

and Sami Carroll, Tom and Mary Lou Collins, Rob Cook, Ross and Zane Drishinski, J.D. Duncan, Heath Elings, Gody Erickson, Mary and Dustin Erickson, Joel Farkell, Molly and Shari Granarelli, Michelle Goyette, Brian Habets, Emily Harwood, Debbie Hicks, Randy Hofstad, Jean and Greg Jensen, Jerry Jerome, Paul Johnson, Mitch Kelllogg, Barbie and Kayla Killorn, Roberta and Shirley Kronebusch, Jeremie LaBarre, Ken Larson, Rob Lettenga, Mike & Jessi Lytle, Dan Majerus, Taylor Marsicano, Janie and John McFarland, Gerald Miller, Matt Missik, Doug Moritz, Jim Morren, C.J. O'Connor, Paul Olson, Vickie and Tom Opus, Tyler Padilla, Mary Peterman, Austin Prewett, Debbie Procella, Dennis, Shari, Sharden and Tyler Richter, Phil Springer, Terri Redd, Corey Riley, Cheryl Sawyer, Justin Schram, Irya Jean Schultz, Mayor John Shevlin, Dillon Trierber, Traci VandenAere, Autumn Varnum, Ron and Bev Widholm and Dan Wilcox

We also appreciate and want to thank our entertainers for the night - Laura Kay Linn, Lauren, Madison and Melanie Hogan, Cary Gombis and Marty Metz. To *The Independent Observer* for the news coverage before and after. Last, but not least, thank you to George Tornga for stepping up as our Master of Ceremonies for the night!

Conrad Area Chamber of Commerce

Thank You!

We want to thank our family, relatives and friends for making our 75th wedding anniversary party a wonderful time of visiting, renewing acquaintances and reliving fond memories. Special thanks to the Moose Lodge folks our day was unforgettable!

LaVern and Vivian Kiel

Thank You!

The Conrad Swim Team would like to thank everyone who made the State Swim Meet a big success and made everyone feel welcomed to our community. There are too many people to thank individually and we did not want to miss anyone. Thanks again.

Conrad Swim Team

PAUL MEYERS FACTOR SALVAGE

1000+ Tractors & Combines
400+ Regrinded Crankshafts
500+ Tractor Tires
300+ Radiators Rebuilt

her, baler & cutter parts
ays and Service

Legal Notices

LEGAL NOTICE
Gale R. Gustafson
GUSTAFSON LAW OFFICES
400 South Main, Suite 101
Conrad, Montana 59425
PERSONAL REPRESENTATIVES ATTORNEY

**MONTANA NINTH JUDICIAL DISTRICT COURT
PONDERA COUNTY**
IN THE MATTER OF THE ESTATE OF
MAHON L. WIPPERMAN
Deceased
PROBATE NO. DP 10-11
NOTICE TO CREDITORS

Notice is hereby given that the undersigned has been appointed Personal Representative of the above named estate. All persons having claims against the said decedent are required to present their claims within four months after the date of the first publication of this notice or their claims will be forever barred.

Claims must either be made to SANDY SILVERNALE, the Personal Representative, return receipt requested, c/o Gale R. Gustafson, Attorney at Law, 400 South Main, Suite 101, Conrad, Montana 59425 or filed with the Clerk of the above written Court.

Dated August 3, 2010
Sandy Silvernale
Personal Representative

LEGAL NOTICE

NOTICE OF TRUSTEE'S SALE Reference is hereby made to that certain trust indentured deed of trust ("Deed of Trust") dated 07/13/07, recorded as Instrument No. 314010 (Book 38, Page 562, mortgage records of Pondera County, Montana) in which Betty A. Weikum, single was Grantor, Wells Fargo Bank, N.A. was Beneficiary and Alliance Title & Escrow Corp. was Successor Trustee. The Deed of Trust encumbers real property ("Property") located in Pondera County, Montana, more particularly described as follows: A tract of land in the S1/2 NW1/4 of Section 4, T26N R17W P.M.M. Pondera County, Montana more fully described as follows: Commencing at the West-south-west corner of Section 4, thence N 88 degrees 19 minutes 46 seconds E, 961.02 feet to the Point of Beginning; thence N 01 degrees 39 minutes 27 seconds W a distance of 808.16 feet to a point; thence N 88 degrees 19 minutes 46 seconds E a distance of 1131.87 feet to a point; thence S 01 degrees 39 minutes 27 seconds E a distance of 808.16 feet to a point; thence N 88 degrees 19 minutes 46 seconds W a distance of 1131.92 feet to a point to the Point of Beginning containing 21.00 acres. Beneficiary has declared the Grantor in default of the terms of the Deed of Trust and the promissory note ("Note") secured by the Deed of Trust under Paragraph 9 (b) of the property ceases to be the principal residence of a borrower for reasons other than death and the property is not the principal residence of at least one other Borrower. Because of the defaults stated above, Beneficiary has elected to sell the Property to satisfy the loan and has instructed Successor Trustee to commence sale proceedings. Successor Trustee will sell the Property at public auction on the north steps of Pondera County Courthouse at 20 Fourth Ave SW, Conrad MT 59425, City of Conrad on November 1, 2010 at 2:00 PM Mountain Time. The sale is a public sale and any person, including Beneficiary and executing any Successor Trustee, may bid at the sale. The bid price must be paid immediately upon the close of bidding at the sale location in cash or cash equivalents (bank money orders, certified checks or cashier's checks). The conveyance will be made by trustee's deed without any representation or warranty, express or implied, as the sale is made strictly on an "as is, where is basis." Grantor, successor in interest to Grantor or any other person having an interest in the Property may, at any time prior to the trustee's sale, pay to Beneficiary the entire amount then due on the loan (including foreclosure costs and expenses actually incurred and the fees and attorney's fees), other than such portion of the principal as would not then be due had no default occurred. Tenders of these sums shall indicate any of the defaults stated above if all such monetary defaults are also cured and shall file with Successor Trustee the foreclosure and cancellation of the foreclosure sale. The trustee's duties of auction may be accessed at www.northwesttrustee.com and are incorporated by the reference. You may also access sale status at www.NorthWestTrustee.com or USA Foreclosure.com (TSA: 802-756749) 802-82166-EE

LEGAL NOTICE

Pursuant to Section 25-20-2106, MCA, copromoter, Montana Alberta Tie Line and MATL LLP (together MATL) give notice that on August 11, 2010 they will file with the Montana Department of Environmental Quality (DEQ) an application to amend the October 22, 2008 Certificate of Compliance relating to the Montana Alberta Tie International Transmission Line Project, as follows (language proposed to be deleted is underlined language proposed to be added is underlined):

A. Certificate, Paragraph 3 (C), the fourth sentence of first full paragraph, page 9, should be amended as follows:

No non-timber permanent structures will be allowed placed within a delineated 50 feet of a stream or wetland. Any construction or maintenance activity (including structure placement) that occurs within a 50 foot buffer zone around a delineated stream or wetland shall be conducted pursuant to the more environmentally protective of: (a) DEQ Environmental Specifications 2.11 and 3.2, (b) any applicable water quality permit, decision, or order, or (c) MATL's Proposed Environmental Protection Measures (M/SA Certificate Attachment 1).

B. Certificate, Paragraph 12 (p 13-14) should be amended as follows:

Construction and operation of the transmission line does not require any air or water quality decision opinion. Prior to the start of construction, MATL shall obtain all necessary water quality decisions, permits or orders. Construction and operation of the transmission line does not require any air quality decision, permit, or order.

Legal Notice

LEGAL NOTICE
Pursuant to Section 25-20-2106, MCA, copromoter, Montana Alberta Tie Line and MATL LLP (together MATL) give notice that on August 11, 2010 they will file with the Montana Department of Environmental Quality (DEQ) an application to amend the October 22, 2008 Certificate of Compliance relating to the Montana Alberta Tie International Transmission Line Project, as follows (language proposed to be deleted is underlined language proposed to be added is underlined):

A. Certificate, Paragraph 3 (C), the fourth sentence of first full paragraph, page 9, should be amended as follows:

No non-timber permanent structures will be allowed placed within a delineated 50 feet of a stream or wetland. Any construction or maintenance activity (including structure placement) that occurs within a 50 foot buffer zone around a delineated stream or wetland shall be conducted pursuant to the more environmentally protective of: (a) DEQ Environmental Specifications 2.11 and 3.2, (b) any applicable water quality permit, decision, or order, or (c) MATL's Proposed Environmental Protection Measures (M/SA Certificate Attachment 1).

B. Certificate, Paragraph 12 (p 13-14) should be amended as follows:

Construction and operation of the transmission line does not require any air or water quality decision opinion. Prior to the start of construction, MATL shall obtain all necessary water quality decisions, permits or orders. Construction and operation of the transmission line does not require any air quality decision, permit, or order.

C. Certificate, Attachment 2, Section 2.11.17, should be amended as follows:

2.11.17. To reduce the amount of sediment entering streams a strip of undisturbed ground or vegetation will be provided for 50 feet between areas of disturbance (such as road construction or linear construction) and wetlands, stream channels, and around the sides of larger streams that have a well defined stream course or aquatic riparian vegetation, unless otherwise required by the LANDOWNER or authorized by the STATE INSPECTOR and managing agency. Buffer strip width is measured from the high waterline of a channel or wetland and will be determined by the STATE INSPECTOR. When braided streams with more than one discernable channel (ephemeral or permanent) are encountered, the high water line of the outermost channel shall be used. In the event that vegetation cannot be left undisturbed, structural sediment control, approved by the STATE INSPECTOR, must be utilized immediately before soil disturbing activity commences.

D. Certificate, Attachment 2, Appendix A, the section labeled "Wetlands" should be amended as follows:

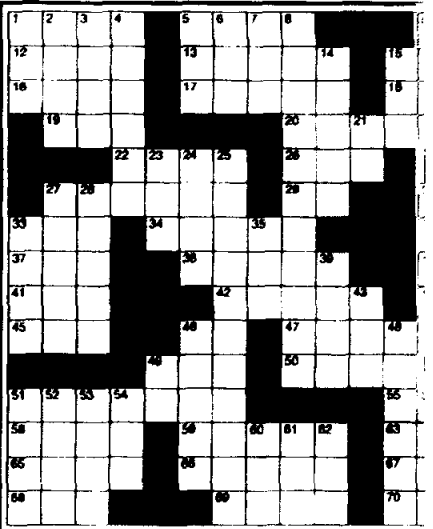
MATL would delineate wetlands within 500 feet of the alignment of the Agency Selected location and all permanent structures construction activities would not be allowed placed within delineated 50 feet of streams or wetlands. Any construction or maintenance (including structure placement) that occurs within a 50 foot buffer zone around a delineated stream or wetland shall be conducted pursuant to the more environmentally protective of: (a) DEQ Environmental Specifications 2.11 and 3.2, (b) any applicable water quality permit, decision, or order, or (c) MATL's Environmental Specifications.

A full copy of MATL's application is available at www.mdeq.mt.gov or by calling (406) 443-6430. A copy of the Certificate of Compliance is available on the DEQ's website at <http://www.deq.mt.gov/M/SA/MATL.mcp>

Pursuant to Section 25-20-219, MCA, DEQ must make a determination on MATL's request within 30 days of the date of this notice. Comments on the application submitted by the public and otherwise affected parties must be received by DEQ by close of business on August 25, 2010. Comments on the application may be submitted by mail to Tom Hing, DEQ Environmental Management Bureau, P.O. Box 200901, Helena, MT 59620-0901 or electronically at thing@mt.gov

Montana Alberta Tie Line (MATL) LLP
30 West 14th, Suite 204
Helena, Montana 59601
(406) 443-6430

NEWSPAPER
Did you know
on-line?



CLUES ACROSS

- Swindle
- Systems, doctrines, theories
- Malaysian isthmus
- Alto, CA, city
- No. Papua New Guinea river
- Not home
- Daminozide
- Molten rock in the Earth's crust
- Bird enclosure
- Actress Larrow
- Mothers
- Long napped carpet
- English National Ballet (abbr.)
- Gambling place
- "Twilight Zone" host's initials
- Ma
- A cow's sound
- Belonging to Burkus
- Honorable title (Cyrilic)
- Baseball hitter's stat
- Flocks of mallards
- Rotating mechanism
- Airborne, abbr.
- Region around
- Type of group
- Mysrgh
- Grey's Anatomy Sandra
- Water course
- Water in the soil
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- Old World bird
- Red dye
- A French abbey
- Outfielder, J.
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- Gas usage measurement
- Cools off
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- Affirmative codes
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- Academy of Country Music (abbr.)
- Megabyte
- Flour city Hwy
- Freshwater duck genus
- End in run
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Meetings

- Take Off Pounds Sensibly (TOPS)** meets Mondays at 5:30 p.m. in the conference room of the Pondera Medical Center.
- Hi-Line's Help for Abused Spouses, Adult and Children's Support Groups** will meet on Mondays 278-3342.
- Mom's Group for Pre-Schoolers** meet every Monday and Thursday. For more information, call Stephanie at 470-1440
- The Conrad Friends** meet the 2nd Tuesday at 10 a.m., Library ("F meet in the summer")
- Victory Chapter #86,** the 2nd and 4th Tue month at 7:30 p.m. Ma
- Pondera Pioneer Ni Auxiliary** meets the of each month at 10, Home
- Pondera Masonic Lod** the 2nd and 4th Wedn p.m
- Pondera County Sear** meet every 2nd Wed
- The City of Conrad Council** meetings are held the 1st and 3rd Monday of each month. Conrad City Hall, 411 1/2 S. Main, Conrad at 7:30 p.m.
- Pondera County Conservation**

Public Notices

PUBLIC NOTICE
You are cordially invited to join

Tab B
STREAM/WETLAND CONSTRUCTION CROSSING SUMMARY

Location by TL Milepost (Lat./Long.)	Stream/Wetland Description	Estimated Crossing Width (feet)	Estimated Disturbance (square feet)	Proposed Crossing Technique and Protective Measures
8.0 (47.602592/ 111.349229)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush and foxtail barley. Narrow stream channel within deeply incised sandstone coulee. No impacts from grazing.	12	No impact – deep incised coulee	Bridging mat – bank to bank Silt fence &/or fiber rolls on stream bank Flagging at 50' buffer Reclamation/revegetation @ crossing approach
9.7 (47.604568/ 111.384157)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush, redtop, and foxtail barley across entire channel. Channel incised 1-2 feet below ground level with moderately sloping banks. Cattle impacts evident to wetland.	20	Mat area – approx. 500 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
10.55 (47.604761/ 111.401824)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush, redtop, and foxtail barley across entire channel. Channel incised 1-2 feet below ground level with moderately sloping banks. Cattle impacts evident to wetland.	10	Mat area – approx. 250 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
11.65 (47.607911/ 111.425011)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush, redtop, and foxtail barley across entire channel. Channel incised 2-3 feet below ground level with steep banks. Minor grazing impacts. Cattle impacts evident to wetland.	5	Mat area – approx. 125 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
12.5 (47.610466/ 111.443415)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush, redtop, and foxtail barley across entire channel. Deeply incised narrow stream channels within sandstone coulees. Cattle impacts evident to wetlands.	30/30 (2 crossings)	No impact – deep incised coulee	Bridging mat – bank to bank Additional work space – southwest Silt fence &/or fiber rolls on stream bank Flagging at 50' buffer Reclamation/revegetation @ crossing approach
13.4 (47.615558/ 111.460395)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush, redtop, and foxtail barley across entire channel. Stream bottom is about 1-2 feet below top of bank. The banks are gently sloping and show evidence of cattle impacts.	15	Mat area – approx. 375 ft ²	Mat – direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
19.8 – 20.05 (47.700305/ 111.484721)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, redtop, and foxtail barley across entire ditch. Stream bottom is about 1-2 feet below top of bank. The banks are steep and heavily grazed.	30	Bridge footprint at each end – approx. 300 ft ²	Bridging mat – bank to bank Additional work space – west and east Silt fence &/or fiber rolls on stream bank Flagging at 50' buffer Reclamation/revegetation @ crossing approach
20.2 (47.704759/ 111.486211)	Irrigation canal with emergent wetland. Dominant wetland vegetation included Baltic rush, redtop, and foxtail barley across entire ditch. Ditch bottom is about 3 feet below top of bank. The banks are steep and heavily grazed.	15	No impact	Bridging mat – bank to bank Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ crossing approach

21.85 (47.728084/ 111.494931)	Ephemeral swale with emergent wetland. Dominant wetland vegetation included Baltic rush, reedtop, inland saltgrass, and foxtail barley across entire swale. Swale is broad and flat with no defined banks. Heavily grazed.	60	Mat area – approx. 1500 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
22.65 – 22.8 (47.737439/ 111.50531)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, reedtop, meadow foxtail and foxtail barley across entire channel. Creeping spikerush in scoured areas in channel. Stream channel is broad and flat. Minor cattle impacts observed.	95	Mat area – approx. 5,700 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
23.6 – 23.85 (47.751403/ 111.505389)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush, reedtop, meadow foxtail, inland saltgrass, and foxtail barley across entire channel. Stream channel is broad and flat with no defined banks. No cattle impacts observed.	100	Mat area – approx. 2,500 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
39.75 (47.924052/ 111.609595)	Teton River (perennial) with emergent and scrub-shrub wetland fringes. Dominant wetland vegetation along banks included creeping spikerush, American licorice, and Canada thistle along 2-3 foot wide wetland fringe along steep sloping north bank that is 4-6 feet above river bottom. Wetland fringe on south bank is 10-15 feet wide and is dominated by sandbar willow, creeping spikerush, Canada thistle, and American licorice. This bank shows continual channel erosion/deposition and is 1-2 feet above the river bottom. No cattle impacts observed.	50	Bridge footprint at south end only– approx. 150 ft ² . No impact at north end of span.	Bridging mat - bank to bank of active channel Potential for mat – direct placement of adjacent wetland areas Silt fence &/or fiber rolls on stream bank Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ bridge &/or mat approach(s)
49.85 (48.025819/ 111.764412)	Intermittent stream with emergent wetland. Dominant wetland vegetation included beaked sedge, Baltic rush, creeping spikerush, meadow foxtail, and foxtail barley. Broad flat channel with little bank relief and some scoured channel depressions. Channel bottom varies from ground level to 2 feet below ground surface. No cattle impacts observed.	15	Mat area – approx. 375 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
50.8 (48.035558/ 111.77794)	Irrigation canal and roadside borrow ditch complex with emergent wetland. Dominant wetland vegetation included meadow foxtail and reed canary grass. Fed by irrigation water the ditch is steep sided with wetland across entire channel and seeping into roadside borrow ditches. No cattle impacts observed.	25	No impact – irrigation canal & borrow ditch in single span.	Bridging mat – bank to bank Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ crossing approach
53.9 – 54.05 (48.063422/ 111.831883)	Depressional emergent wetland. Dominant wetland vegetation included meadow foxtail and reed canary grass. Fed by irrigation water the depressional area tapers to a ditch to south. Minor cattle impacts evident.	10	Mat area – approx. 250ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
54.1 – 54.15 (48.065049/ 111.835357)	Irrigation canal with emergent wetland. Dominant wetland vegetation included meadow foxtail and creeping spikerush as narrow fringes along banks. Steep banks 2-3 feet below ground surface with 1-2 foot wide wetland fringe. No cattle impacts evident.	10	No impact	Bridging mat – bank to bank Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ crossing approach

55.8 – 56.1 (48.072535/ 111.8668)	Ephemeral stream and irrigation canal complex with emergent wetland. Dominant wetland vegetation included cattail, beaked sedge, Baltic rush, creeping spikerush, meadow foxtail, reed canary grass, and foxtail barley. Broad flat channel with little bank relief and some scoured channel depressions. Channel bottom varies from ground level to 2 feet below ground surface. No cattle impacts.	10/10 (2 crossings)	No impact @ irrigation canal crossing. Bridge footprint at each end of bridged stream crossing – approx. 200 ft ²	Bridging mat – bank to bank at both canal and stream crossings Additional work space on west to avoid marsh @ south end of complex Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ crossing approach(s)
56.35 (48.077574/ 111.875855)	Ephemeral stream with emergent wetland. Dominant wetland vegetation included Baltic rush, redtop, meadow foxtail, Canada thistle and reed canary grass. Some incised pockets in channel with creeping spikerush. Wetland veg. across entire channel with flat sloping banks. Channel bottom approx. 1 feet below ground surface. No cattle impacts.	20	No impact	Hardened crossing to the north. Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ crossing approach(s)
69.25 – 69.3 (48.211494/ 112.046132)	Ephemeral stream with emergent wetland. Dominant wetland vegetation included Baltic rush, redtop, creeping spikerush, and meadow foxtail. Wetland veg. across entire channel with sloping banks that show minor grazing impacts. Channel bottom approx. 1-2 feet below ground surface. Cattail and sedge wetland near irrigation canal.	10	Mat area – approx. 250ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
70.75 (48.232/ 112.045)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush, redtop, and beaked sedge as fringe wetlands along banks. Channel is incised about 2-3 feet below ground surface with 1-2 foot wide wetland fringes. Evidence of grazing impacts on channel with steep banks.	25	Mat area – approx. 625ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
74.8 (48.284/ 112.066)	Irrigation canal with emergent wetland. Dominant wetland vegetation included meadow foxtail and creeping spikerush as narrow fringes along banks. Steep banks 3-4 feet below ground surface with 1-2 foot wide wetland fringe. No cattle impacts evident.	50	No impact	Bridging mat – bank to bank Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ crossing approach
75.3 (48.292/ 112.066)	Intermittent stream with emergent wetland. Dominant wetland vegetation included meadow foxtail and reed canary grass across entire flat swale. No defined banks and no cattle impacts.	75	Mat area – approx. 1,875 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
76.2 (48.303738/ 112.066355)	Irrigation canal with emergent wetland. Dominant wetland vegetation included Baltic rush, meadow foxtail, creeping spikerush and foxtail barley as narrow fringes along banks. Steep banks 3-4 feet below ground surface with 1-2 foot wide wetland fringe. No cattle impacts evident.	25	No impact	Bridging mat – bank to bank Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ crossing approach
83.2 (48.36623/ 112.120934)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, cattail, meadow foxtail, redtop, and Canada thistle as fringes along stream banks. Channel incised 2-3 feet with steep banks. Minor grazing impacts	15	No impact – incised channel	Bridging mat – bank to bank Additional work space – south Silt fence &/or fiber rolls on stream bank Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ bridge approach

83.6 – 83.75 (48.369388/ 112.1299)	Alkali springs with emergent wetland. Dominant wetland vegetation was foxtail barley, seaside arrowgrass, inland saltgrass, Nuttall's alkaligrass, Pursh seepweed, and red glasswort. Broad swale with no defined bank. Wetland is heavily grazed.	125/100 (2 crossings)	Mat area – approx. 3,125 ft ² and 2,500 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
84.0 (48.371629/ 112.136264)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush and foxtail barley as fringes along stream banks. Flat channel with little bank relief and heavy cattle impacts.	30	Mat area – approx. 750 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
88.3 (48.426991/ 112.170238)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush and foxtail barley along narrow fringes of drainage. Channel is within a deeply incised coulee. No cattle impacts.	35	No impact – deep incised ravine	Bridging mat – bank to bank Reclamation/revegetation @ bridge approach
98.75 (48.557279/ 112.277374c)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, redbud and foxtail barley in coulee bottom. Deeply incised channel in sandstone coulee. No cattle impacts.	18	No impact – deep incised ravine	Bridging mat – bank to bank Reclamation/revegetation @ bridge approach
99.25 (48.563767/ 112.283085)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush and foxtail barley as narrow fringes along banks. Deeply incised channel in sandstone coulee. No cattle impacts.	20	No impact – deep incised ravine	Bridging mat – bank to bank Reclamation/revegetation @ bridge approach
100.45 (48.578068/ 112.297026)	Intermittent stream with emergent wetland. Dominant wetland vegetation included Baltic rush, creeping spikerush and foxtail barley as narrow fringes along banks. Deeply incised channel in sandstone coulee that shows impacts from cattle.	26	No impact – deep incised ravine	Bridging mat – bank to bank Reclamation/revegetation @ bridge approach
115.5 (48.783722/ 112.27283)	Intermittent stream with emergent wetland. Dominant wetland vegetation included beaked sedge, Baltic rush, creeping spikerush and foxtail barley as fringes along banks of incised stream channel. Banks 2-3 feet above stream bottom and steep, with no cattle impacts.	20	No impact – deep incised ravine	Bridging mat – bank to bank Reclamation/revegetation @ bridge approach
116.1 (48.788673/ 112.261384)	Intermittent stream with emergent wetland. Dominant wetland vegetation included beaked sedge, Baltic rush, creeping spikerush and foxtail barley. Deeply incised channel in sandstone coulee that shows impacts from cattle.	90	No impact – deep incised ravine	Bridging mat – bank to bank Silt fence &/or fiber rolls on stream bank Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ bridge approach
116.4 – 116.6 (48.790203/ 112.253194)	Depressional emergent wetland. Dominant wetland vegetation included meadow foxtail, foxtail barley, lambsquarter, and sowthistle. A broad shallow depression that is partially cut for hay. No evidence of cattle grazing.	65	Mat area – approx. 1,625 ft ²	Mat - direct placement Additional work space – south Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach
117.55 (48.790194/ 112.229805)	Ephemeral stream with emergent wetland. Dominant wetland vegetation included meadow foxtail and foxtail barley. A broad swale with no defined bank. No evidence of cattle grazing.	20	Mat area – approx. 500 ft ²	Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach

<p>118.15 – 118.5 (48.790185/ 112.213295)</p>	<p>Hay Lake emergent wetland complex. Dominant wetland vegetation on east side of Berger Road was foxtail barley and meadow foxtail. West side of road in alkali area was seaside arrowgrass, inland saltgrass, Nuttall's alkali grass, Pursh seepweed, and red glasswort with mesic transition to foxtail barley and meadow foxtail. Roadside ditches with wetland on both sides of road otherwise both sides are a broad swale with no defined bank. Wetlands show no evidence of cattle impacts.</p>	<p>975/10/80 (3 crossings)</p>	<p>Mat area – approx. 500 ft²/250 ft²/2,000 ft²</p>	<p>Mat - direct placement Additional work space - south Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach</p>
<p>123.95 (48.862242/ 112.20003)</p>	<p>Intermittent stream with emergent wetland. Dominant wetland vegetation included beaked sedge, Baltic rush, creeping spikerush, meadow foxtail, and foxtail barley. A broad swale with no defined bank. Entire area impacted by cattle.</p>	<p>30</p>	<p>Mat area – approx. 750 ft²</p>	<p>Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach</p>
<p>125.4 – 125.45 (48.884653/ 112.19954)</p>	<p>Ephemeral stream and pond with emergent wetland. Dominant wetland vegetation included meadow foxtail, foxtail barley and curly dock. Minor channel incision from cattle impacts with some vertical banks approx. 2 feet in height (scoured depressions in channel) to flat swale with undefined channel near impoundment.</p>	<p>40</p>	<p>Mat area – approx. 1,000 ft²</p>	<p>Mat - direct placement Flagging &/or silt fence @ 50' buffer Reclamation/revegetation @ mat approach</p>



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
HELENA REGULATORY OFFICE
10 WEST 15TH STREET, SUITE 2200
HELENA, MONTANA 59626-9705

May 21, 2010

Regulatory Branch
Montana State Program
Corps No. NWO-2010-00025-MTH

Subject: Timber Mats-Montana-Alberta Intertie
Attn: Mr. David Axford
Montana Alberta Tie Ltd.
Suite 800, 615 McLeod Trail SE
Calgary, Alberta T2G4T8

Reference is made to your application for Department of the Army (DA) authorization to install temporary timber frame mats to create a stable surface for the equipment used to install utility poles, located in the following locations in Glacier County, Montana.

Specifically, you requested authorization for the following work:

Work Item	Description
a.	Install approximately 1,625 square feet of mat at Latitude 48.7902, Longitude -112.25319
b.	Install approximately 500 square feet of mat at Latitude 48.79019, Longitude -112.22298
c.	Install approximately 1,625 square feet of mat at Latitude 48.79018, Longitude -112.21395
d.	Install approximately 1,625 square feet of mat at Latitude 48.86224, Longitude -112.20003
e.	Install approximately 1,625 square feet of mat at Latitude 48.88465, Longitude -112.19954
f.	Work will be done during low flow or in the dry.
g.	The mats will be completely removed and any disturbed areas reclaimed.

Under the authority of Section 404 of the Clean Water Act, DA permits are required for the discharge of fill material into waters of the U.S. Waters of the U.S. include the area below the ordinary high water mark of stream channels and lakes or ponds connected to the tributary system, and wetlands adjacent to these waters. Isolated waters and wetlands, as well as man-made channels, may be waters of the U.S. in certain circumstances, which must be determined on a case-by-case basis. It appears your proposed activities will impact approximately 350 square feet of waters of the U.S.

The Corps of Engineers (Corps) prepared a preliminary jurisdictional determination (JD) for the sites. A preliminary JD is a written indication that waterways and wetlands within your project area may be waters of the U.S. These waters were treated as jurisdictional waters of the U.S. for the purposes of determining project impacts and compensatory mitigation requirements. Preliminary JDs may not be appealed.

If you believe the preliminary JD is inaccurate, you may request this office complete an approved JD **prior to your commencement of any work in a water of the U.S.** An approved JD is an appealable official determination regarding the presence or absence of waters of the U.S. Completion of an approved JD may require coordination with the U.S. Environmental Protection Agency.

If you believe the preliminary JD is accurate and do not want the Corps to complete an approved JD, please sign the preliminary JD and return it to the letterhead address within two weeks. If you agree with the preliminary JD, you may proceed with the proposed project in accordance with the terms and conditions of DA Nationwide Permit Number 33 found in the March 12, 2007 Federal Register (72 FR 11092), Reissuance of Nationwide Permits. Enclosed is a fact sheet that fully describes this Nationwide Permit and lists the General and Regional Conditions that must be complied with.

In addition to conditions referenced above, the following **Special Conditions** apply:

Condition	Description
1.	All erosion and sediment control practices shall be in place prior to any grading or filling operations and installation of proposed structures or utilities. They shall remain in place and maintained until construction is completed and the area is stabilized.
2.	Limit clearing of riparian or wetland vegetation to the absolute minimum necessary. Where temporary riparian or wetland vegetation impacts are unavoidable, it must be mowed or cut off above the ground and topsoil and root mass must be left intact.
3.	Do not disturb wetland, riparian, or stream bank vegetation to accommodate temporary staging areas, temporary storage areas, or temporary parking areas.

Although an Individual DA permit involving a public interest review will not be required for the project, this does not eliminate the requirement that you obtain any other applicable Federal, state, tribal, and local permits as required.

The Montana Department of Environmental Quality has provided water quality certification for Nationwide Permit 33 (see General Condition 21 on the enclosed fact sheet). Enclosed is a copy of the Section 401 certification which includes General Conditions for the Nationwide Permits, all of which must be complied with for that Section 401 Certification to remain valid. This does not eliminate the need to obtain other permits that may be required by that agency.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP.

You, as the permittee, understand and agree that, if future operations by the U.S. require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

If a contractor or other authorized representative will be accomplishing the work authorized by the Nationwide Permit on your behalf, it is strongly recommended that they be provided a copy of this

letter and the attached conditions so that they are aware of the limitations of the applicable Nationwide Permit. Any activity that fails to comply with all of the terms and conditions of the Nationwide Permit will be considered unauthorized and subject to appropriate enforcement action.

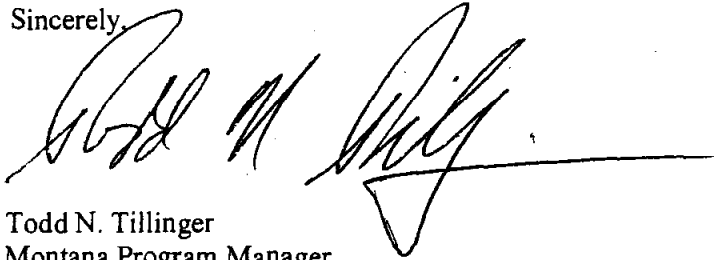
Should you at any time become aware that either an endangered or a threatened species, or their critical habitat, exists within the project area, you must immediately notify this office.

In compliance with General Condition 26, the attached Compliance Certification form must be signed and returned to the address listed upon completion of the authorized work and any required mitigation.

We are interested in your thoughts and opinions concerning your experience with the Corps' Omaha District Regulatory Program. We have placed an automated version of our Customer Service Survey form at <http://per2.nwp.usace.army.mil/survey.html>. At your request, we will mail a paper copy that you may complete and return to us by mail or fax.

We are sending a copy of this verification to AMEC Earth & Environmental, Attn: Mr. David Jacobson, 201 E. Broadway, Suite B, Helena, Montana 59602. If there are questions concerning this determination please contact Deborah Blank of my staff at (406) 441-1375 and reference Corps File Number **NWO-2010-00025-MTH**.

Sincerely,



Todd N. Tillinger
Montana Program Manager

Enclosures

COMPLIANCE CERTIFICATION

Corps File Number: **NWO-2010-00025-MTH Timber Frame Mats**
Name of Permittee: **Montana-Alberta Tie, Ltd**
County: **Glacier**
Date of Issuance: **May 21, 2010**
Corps Project Manager: **Deborah Blank**

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US Army Corps of Engineers
Helena Regulatory Office
10 West 15th Street, Suite 2200
Helena, Montana 59626-9705

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the conditions of this permit, you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there “*may be*” waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

A. Report Completion Date for Preliminary Jurisdictional Determination (JD): 5/18/2010

B. Name and Address of Person Requesting Preliminary JD: AMEC

C. District Office, File Name, and Number: Omaha District, NWO-2010-00025--MTH

D. PROJECT LOCATION(S), BACKGROUND INFORMATION, AND WATERS:

State: MT
 City: Shelby
 County: Glacier
 Name of nearest waterbody: Marias River
 Identify amount of waters in the review area: lf

(Table 1 identifies the impacts).

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal:
 Non-Tidal:

Table 1 - Waters of the U.S.

Site #	Latitude	Longitude	Stream Flow	Cowardin Class	Estimated amount of aquatic resources in review area	Estimated amount of aquatic resource impact ¹	Class of aquatic resource
1	48.790203	-112.253194	Non-RPW	PEM1	>5000 sq ft	Mat area – approx. 1,625 ft ²	Non-tidal
2	48.790194	-112.229805	Non-RPW	Riverine	>1000 lf	Mat area – approx. 500 ft ²	Non-tidal
3	48.790185	-112.213295	Non-RPW	PEM1	>5000 sq ft	Mat area – approx. 500 ft ² /250 ft ² /2,000 ft ² (3 crossings)	Non-tidal
4	48.862242	-112.20003	Non-RPW	Riverine	>1000 lf	Mat area – approx. 750 ft ²	Non-tidal
5	48.884653	-112.19954	Non-RPW	PEM1	>5000 sq ft	Mat area – approx. 1,000 ft ²	Non-tidal

¹All impacts noted would be temporary during construction as all mats and bridges would be removed and any fill material used to stabilize these features would be removed following construction.

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

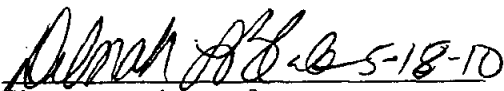
- Office (Desk) Determination. Date: 5/18/2010
- Field Determination. Date(s):

F. SUPPORTING DATA:

Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: AMEC
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite quad name:
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date):
or Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.


Signature and date of
Regulatory Project Manager
(REQUIRED)

Signature and date of
person requesting preliminary JD
(REQUIRED, unless obtaining the signature is
impracticable)

FACT SHEET
NATIONWIDE PERMIT 33
Effective March 19, 2007

TEMPORARY CONSTRUCTION, ACCESS, AND DEWATERING. Temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the Corps of Engineers or the U.S. Coast Guard. This NWP also authorizes temporary structures, work, and discharges, including cofferdams, necessary for construction activities not otherwise subject to the Corps or U.S. Coast Guard permit requirements. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if the district engineer determines that it will not cause more than minimal adverse effects on aquatic resources. Following completion of construction, temporary fill must be entirely removed to upland areas, dredged material must be returned to its original location, and the affected areas must be restored to pre-construction elevations. The affected areas must also be revegetated, as appropriate. This permit does not authorize the use of cofferdams to dewater wetlands or other aquatic areas to change their use. Structures left in place after construction is completed require a section 10 permit if located in navigable waters of the United States. (See 33 CFR part 322.)

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. The pre-construction notification must include a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions. (Sections 10 and 404)

General Conditions: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those

species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are

encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. Endangered Species. (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWP.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to

prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than *minimal*.

* **20. Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are *minimal*:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are *minimal*.

(c) Compensatory mitigation at a *minimum* one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in *minimal* adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWP. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. Coastal Zone Management. *Not Applicable.*

23. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

26. Compliance Certification. Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

27. Pre-Construction Notification. See Web version at <https://www.nwo.usace.army.mil/html/od-r/factsheets/factsh.html>

28. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

**2007 NATIONWIDE PERMITS
REGIONAL CONDITIONS
STATE OF MONTANA
OMAHA DISTRICT – CORPS OF ENGINEERS
Effective March 19, 2007**

1. Fens

All nationwide permits, with the exception of 3, 5, 6, 20, 27, 32, 38 and NWP 47, are revoked for use in fens in Montana. For these nationwide permits (except NWP 47) permittees must notify the Corps in accordance with General Condition No. 27 (Notification) prior to initiating any regulated activity impacting fens in Montana.

Fens are wetlands that are characterized by waterlogged spongy ground and contain (in all or in part) soils classified as histosols (e.g. peat, muck) or mineral soils with an organic surface layer. Peat accumulations can be from one to more than 10 feet deep. Fens develop on flat to gently sloping terrain, and are sustained by both groundwater and surface flow. Fens typically support uncommon plant and animal species. Dominant vegetation types usually include grasses, sedges, rushes and some species of shrubs.

2. Springs

For all nationwide permits, except NWP 47, permittees must notify the Corps in accordance with General Condition No. 27 (Notification) for regulated activities located within 100 feet of the water source in natural spring areas in Montana. For purposes of this condition, a spring source is defined as any location where there is groundwater flow emanating from a distinct point at any time during the growing season. Springs do not include seeps and other groundwater discharge areas where there is no distinct point source.

3. Riffle and Pool Complexes

For all nationwide permits, except NWP 47, permittees must notify the Corps in accordance with General Condition No. 27 (Notification) prior to initiating any regulated activity involving the discharge of dredge or fill material into riffle and pool complexes.

4. Forested Wetlands

For all nationwide permits, except NWP 47, permittees must notify the Corps in accordance with General Condition No. 27 (Notification) prior to initiating any regulated activity involving the discharge of dredge or fill material into a forested wetland.

Forested wetlands are characterized by woody vegetation that is 20 feet tall or taller. They are located where moisture is relatively abundant, particularly along rivers and in the mountains and normally possess an overstory of trees and an understory of young trees or shrubs and an herbaceous layer.

5. Yellowstone River, Bitterroot River, Missouri River, the Flathead River above Flathead Lake and Flathead Lake

In addition to those nationwide permit activities that require notification to the Corps, all activities, except those activities authorized by NWP 47, proposed to be undertaken on these rivers require prior notification to the Corps in accordance with General Condition No. 27 (Notification).

6. Placement and Removal of Temporary Fills

Temporary fills in wetlands must be placed on a horizontal marker layer such as fabric or certified weed-free straw to delineate the pre-project ground elevation and facilitate complete fill removal and site restoration.

7. Channel Straightening and Relocation Activities

For all nationwide permits, except NWP 47, permittees must notify the Corps in accordance with General Condition No. 27 (Notification) prior to straightening, relocating and/or shortening an existing perennial stream channel. The total channel length reduction must be less than 100 feet, and the project must be necessary to prevent significant damage to existing structures (roads, buildings, bridges, etc.).

8. Temporary Vegetation Impacts

Limit clearing of riparian or wetland vegetation to the absolute minimum necessary. Where temporary riparian or wetland vegetation impacts are unavoidable, mow or cut off the vegetation above the ground, leaving the topsoil and root mass intact. Restore disturbed areas to original contours and use seeding and planting as necessary to re-establish desirable vegetative cover, utilizing native species in areas where native species were impacted.

9. Erosion Control Blanket

All erosion control blanket or fabric used in or adjacent to waters of the U. S. must be natural and biodegradable to ensure decomposition. Do not use material that includes a synthetic or ultraviolet (UV) stabilized mesh, as those products take a long time to degrade and trap small animals, birds, amphibians and fish.

10. Historic Properties

The permittee and/or the permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of a contract or contract(s) to complete the work authorized by any Nationwide Permit, shall cease work and report the discovery of any previously unknown historic or archeological remains to the Helena Regulatory Office. Notification shall be by telephone or fax within 24 hours of the discovery and in writing within 48 hours. Work shall not resume until the permittee is notified by the Helena Regulatory Office.

11. Nationwide Permits 3 – Maintenance and 45 - Repair of Uplands Damaged by Discrete Events

"Discrete Event," as used in these nationwide permits, does not include runoff events equal to or less than the bankfull discharge.

12. Nationwide Permit 12 - Utility Line Activities

Permittees must notify the Corps in accordance with General Condition No. 27 (Notification) prior to initiating any utility line activity that involves the discharge of dredged or fill material into any open water including lakes, ponds and flowing streams.

13. Nationwide Permit 13 - Bank Stabilization

Permittees must notify the Corps in accordance with General Condition No. 27 (Notification) prior to initiating any bank stabilization activity that exceeds 300 linear feet or utilizes broken concrete. Additionally, the following requirements apply:

For bank revetments such as riprap, rootwads or any bioengineered revetment, a. through c. apply:

- a. the revetment must conform to the existing bankline.
- b. the revetment must not extend above the elevation of the existing top of the bank (i.e., no new levees).
- c. the revetment must not wholly or partially block flows from entering a side channel or an overflow channel.

For bank stabilization structures that project into the stream, such as weirs, barbs or vanes, d. though i. apply:

- d. The bank-end of the structure can be no higher than the ordinary high water mark.
- e. The top of the structure must decrease in elevation as it extends away from the bank.
- f. The structures must angle upstream from the bank.
- g. The structures must be keyed into the bed and the bank.
- h. The structure must not wholly or partially block flows from entering a side channel or an overflow channel.
- i. The structure cannot extend out more than 25% of the bankfull channel width from the existing bank.

14. Nationwide Permit 27 - Aquatic Habitat Restoration, Establishment, and Enhancement Activities

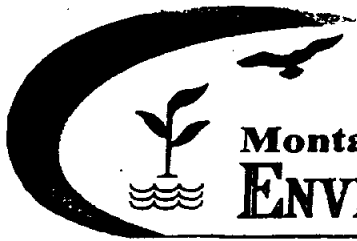
Notifications for pond projects must demonstrate there will be no net loss of emergent wetlands (if present) once the pond site matures in order for the project to qualify for NW27. Monitoring will be required to assure no net loss of emergent wetlands.

Nationwide Permit 27 will not be used to authorize berms or similar structures for on-stream ponds on perennial streams.

Additional Information

Suitable Material

Permittees are reminded of the General Condition No. 6 which prohibits the use of unsuitable material. In addition, organic debris, building waste, and materials containing excessive fine sediment are not suitable material.



May 4, 2007

**Water Quality Certification In Accordance With Section 401 of the Clean Water Act For
The 2007 Nationwide Permits in Montana**

A. General Conditions for Nationwide Permits

- 1) This certification does not authorize the placement or construction of septic/leach systems or other sewage treatment plants in wetlands.
- 2) This certification does not authorize construction of dams, except for stream restoration projects and temporary dams associated with construction activity.
- 3) This certification requires that materials used in stream bank stabilization projects adhere to the Montana Department of Environmental Quality's December 5, 2000 guidelines for materials for stream bank stabilization.
- 4) This certification requires that all equipment be inspected for oil, gas, diesel, anti-freeze, hydraulic fluid and other petroleum leaks. Equipment cannot continue operating in or near the water if a leak is discovered. All such leaks will be properly repaired prior to equipment being allowed on the project. Leaks that occur after the equipment is moved to the project site will be fixed that same day or the next day or be removed from the project area. If equipment is to be operated in or near water, a spill containment kit shall be available at the project site.
- 5) This certification requires that bridge decks shall, to the maximum extent practicable, incorporate design features that do not allow the direct drainage of deck run-off laden with sand/salt, to discharge directly into state waters.

B. Special Conditions for Specific Nationwide Permits

- 1) 401 Water Quality Certification is granted for Nationwide Permits 1-11, 14 -25, 28-44, 46-50.

2) Nationwide Permit #12 (utility line activities) is certified for fiber optic projects where a static or vibratory plow is used, there are less than 12 stream crossings or the crossing is done in the dry. For all other projects that qualify for this NWP, DEQ denies 401 Water Quality Certification. This will allow DEQ to consider water quality standard related conditions for smaller projects that would not qualify for our review under the Montana Major Facilities Siting Act.

3) DEQ denies 401 Water Quality Certification for Nationwide Permit # 27 (stream and wetland restoration activities) for projects in all water bodies, including projects that involve 303 (d) listed water quality limited water bodies. Traditionally, DEQ waived certification for non-listed water bodies, but due to on going listing and de-listing of water bodies in the program, DEQ reserves the 401 Water Quality Certification option for all water bodies. This will give DEQ the option of providing Total Maximum Daily Load (TMDL) monitoring conditions for projects that may qualify for TMDL restoration type activities.

4) DEQ denies 401 Water Quality Certification for Nationwide Permit #13 (bank stabilization) for projects greater than 300 lineal feet in all water bodies. This will allow us to further our goals of improving bank stabilization techniques and also complement TMDL projects involving impairments related to habitat alterations. As always, our staff will coordinate with your staff to define certain water bodies and project sizes that will not require our 401 Certification review.

5) DEQ denies 401 Water Quality Certification for Nationwide Permit #45 (repair of uplands damaged by discrete events) Since this is one of the new Nationwide permits, we want to reserve our 401 Water Quality Certification option to see how and to what degree it will be applied to river and stream projects.