



April 11, 2011

Tim Reardon, Chief Legal Counsel
Montana Department of Transportation
PO Box 201001
Helena, MT 59620-1001

Attorney General Steve Bullock
Montana Department of Justice
PO Box 201401
Helena, MT 59620-1401

Sent via U.S. mail, fax, and email

RE: Missoula County et al. v. MDT, No. DV-11-424, Dept. 3, Montana 4th Judicial District Court, Missoula County

Dear Attorney General Bullock and Mr. Reardon:

The purpose of this letter is to request clarification regarding Imperial Oil's ("IO") Kearn Module Transport Project ("KMTP") and propose a stipulation regarding the above-referenced action, filed on April 1, 2011.

On April 8, 2011, we learned that MDT had issued a permit to allow an oversize load called the KMTP "test validation module" ("TVM") to enter Montana at Lolo Pass and travel to Lolo Hot Springs on April 14-15, 2011, to be stored at that location until construction of the KMTP permanent infrastructure modifications was completed. Regarding this permit, we request clarification on the following points:

- Please immediately provide us with copies of any transport permits that have been issued that in any way relate to the KMTP. Please consider this to be an open and continuing request for copies of any permits that may be issued in the future.
- What type of permit was issued for the TVM, and is the description above consistent with the parameters of this permit? On what date was this permit approved by MDT? On what date did MDT receive a permit application from IO for the TVM?
- Was the permit issued for this TVM part of the KMTP as approved through the February 2011 Finding of No Significant Impact ("FONSI")? If so, were the permanent infrastructure modifications approved under the KMTP FONSI completed prior to granting this permit?
- If this permit was issued as an action independent of the KMTP, was any MEPA environmental review undertaken during MDT's approval of this permit application?

As you know, our clients filed a motion for preliminary injunction on April 7, 2011 with a brief and exhibits in support. An electronic copy of that motion and brief were transmitted to you on April 7, and full copies mailed to MDT on that day.

We are aware that the FONSI authorized MDT to issue encroachment permits for construction of KMTP infrastructure modifications. Regarding KMTP infrastructure modifications:

- Please immediately provide us with copies of any encroachment or construction permits that have been issued that in any way relate to the KMTP. Please consider this to be an open and continuing request for copies of any permits that may be issued in the future.
- Has MDT issued any permits for construction or expansion of turnouts, for signal modification, or any other construction work, other than utility relocation, necessary for the KMTP? If so, what permits have been granted, when were they issued, and when will construction work begin pursuant to issued permits?
- If no permits have been issued for KMTP construction as described in the previous questions, does MDT intend to issue such permits prior to resolution of our clients' request for preliminary injunction?

Given that the purpose of our request for preliminary injunction is to preserve the status quo until a final hearing on the merits, we reiterate a request made last week that MDT agree not to issue any permits (encroachment, 32-J, etc.) that are connected/related to the KMTP, pending resolution of the injunction motion. If you will agree, we will prepare a stipulation to be filed with the Court outlining that MDT agrees to abstain from issuing any permits for construction or KMTP module transport until the Court's resolution of our motion for preliminary injunction. Because time is of the essence, we ask that MDT respond substantively to this letter by 12:00 pm on Wednesday, April 13, 2011.

If we are unable to reach an agreement to maintain the status quo, or if we get no response from you as to this request by noon Wednesday, April 13, 2011, we will seek a temporary restraining order from the Court to prevent MDT from issuing permits pursuant to the KMTP FONSI.

It is in all of our best interests that this matter is resolved in a fair and timely fashion, and we look forward to your timely response. Thank you for your attention to our questions and proposed stipulation.

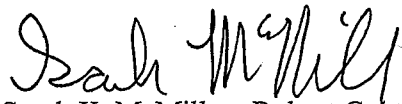
Sincerely,



D. James McCubbin, Deputy County Attorney
Attorney for Missoula County



Thomas France
Attorney for National Wildlife Federation



Sarah K. McMillan, Robert Gentry, and Summer Nelson
Attorneys for Montana Environmental Information Center
and Montana Chapter of the Sierra Club

cc: Steve Brown, esq.