

**Energy & Utilities KIN**

**Montana Facilities Siting Act (MFSA)**

**Need, Alignment & Eminent Domain Conference Call Minutes**

**October 2, 2015**

**10:00 a.m. – 11:00 a.m.**

**Participants:** Jeff Blend, DEQ  
Mary Craigle, Commerce  
Michael Cashell, NW Energy  
Greg Copeland, Naturener  
Ed Hayes, DEQ  
Darryl James, Enbridge  
Laura Andersen, DEQ  
Craig Jones, DEQ  
Tom Kaiserski, Commerce  
Tom Livers, DEQ  
Warren McCullough, DEQ  
Bob Rowe, NW Energy  
James Strait, DEQ  
Kristi Ponozzo, DEQ

Call began with introductions followed by Bob Rowe thanking Director Livers for distributing the two memos regarding Legislative Action on the Mile-wide Corridor and Need Standard in Montana and the U.S. West prior to this call.

**Update from DEQ on Mile-Wide Discussions**

Tom Livers mentioned that during the last conference call the mile-wide corridor was discussed with the Energy & Utilities Key Industry Network (KIN) members and they preferred the #3 option/approach to repeal the 1-mile requirement. Several options for revising the mile wide provision in MFSA were discussed during the call. Members of the KIN generally supported the option of repealing the 1-mile study and replacing it with a requirement that the project's engineers and DEQ staff work to identify areas where the approval may need to be larger. Livers indicated that following the August 27<sup>th</sup> conference call DEQ met with Darryl James, representing Enbridge and very familiar with MATL siting issues, to discuss this issue in more detail and determine the rationale behind the adoption of the mile-wide corridor and how it can best be revised so as to achieve its original purpose but avoid unintended consequences. Darryl indicated that the meeting with DEQ went well and acknowledged that both parties (DEQ & KIN) are close on this issue but there needs to some be more work to optimally address it.

Greg Copeland would endorse idea of a re-write and suggests having discussions prior to permitting required.

## **Next Steps**

Livers acknowledged both parties have a common idea on what needs to be accomplished and discussions on this issue will continue into 2016 in preparation for potential legislation in 2017. Mary Craigle will continue to facilitate these discussions.

## **Update on next steps to explore the “Need” topic**

Tom Livers referred to the ‘Need Standard in Montana and the U.S. West’ memo dated 9/23/15 outlining the ‘Need Determination’ rules for an electric transmission line in Montana.

Jeff Blend, author of the memo, summarized it, which essentially describes the problems associated with the need determination and how other states in the region address need in their siting rules. Much of the issue in Montana stems from the fact that MFSA is about 40 years old and does not address sufficiently the new paradigm for utilities; in particular “merchant transmission lines” designed to transport energy to serve remote regional customers. He acknowledged that the memo does not offer recommendations on how this issue should be addressed and he stated that it will take some work to determine how the “need” issue is addressed.

Mike Cashell supported holding meetings between the DEQ and the KIN to work out the details of a revised MFSA determination of need and then working those through the legislative process. Mike supports the idea of determining need first before the applicant and the DEQ expend considerable effort and endure considerable public outcry while conducting a required environmental review.

Mary Craigle recommends an “in-person” meeting since this is a big issue, possibility around the first of the new year and allow enough time to think ahead of time and fair amount of corollary issues.

Tom Livers indicated that executive branch legislation is usually done in late winter prior to the session. He indicated that the draft legislation might or might not include both issues (i.e. “Need” and 1-mile corridor) in one bill; strategically it might be better to address the issues in separate bills and that decision should be made as the issues are discussed going forward.

Bob Rowe suggested beginning discussion on the strategy at the final Energy & Utilities KIN meeting scheduled on December 16, 2015.

Call ended at 10:29 a.m.