EXHIBIT 4
DATE 2.2.05
HB HB388

A Brief History of Montana's Major Facility Siting Act:

"Death by a Thousand Cuts"

(Compiled by Patrick Judge, MEIC)

1973 - Utility Siting Act was passed

1975 - Renamed "Major Facility Siting Act"
- expanded the coverage of the Act
- added "public interest, convenience, & necessity"
- but also allowed a waiver if an immediate need existed

1977 - fee reduction

1979 - exempted refineries
- combined hearings to expedite the process
- established time limits for the commencement of construction on linear facilities

1981 - exempted qualifying "innovative energy" projects
- partial waivers for facilities in counties where a large employer has curtailed its operation

1983 - repealed exemptions for federal projects

1985 - added water & coal slurry pipelines to the Act (which were later removed)
- exempted pipelines less than 17 inches in diameter, and pipelines less than 30 miles

1987 - eliminated alternate locations study
- eliminated transmission lines up to 115 kV (from 69 kV) with 75% of landowners consent

1993 - exempted utilities that filed Least Cost Plans from the long-range plan requirement

1995 - exempted power plants up to 150 MW (from 50 MW)
- eliminated consideration of alternatives from Board's decision making
- shortened time periods
- eliminated the Board's authority to disapprove the transfer of a certificate

1997 - shortened review from 22 months to 12 months
- shortened other timelines
- provided a 180 day expedited review
- exempted power plants up to 250 MW
- exempted transmission lines up to 230 kV with 75% of landowners consenting
- eliminated the demonstration of need for generation plants, as well as the "public interest, convenience, and necessity" requirement and the requirement that the facility minimize adverse environmental impacts

- required "reasonable cost-effective mitigation" and required that unmitigated impacts do not pose a threat of serious injury or damage
- authorized DEQ to require performance bonds

1999 - exempted in-state pipelines for irrigation of agricultural crops

2001 - exempted power plants outright
- exempted pipelines up to 25 inches in diameter & pipelines less than 50 miles
- exempted all coal slurry pipelines and pipelines with 75% of landowners consenting
- shortened the review time from 12 months to 9 months
- shortened expedited review from 180 days to 120 days
- shortened other timelines

2003 - exempted transmission lines less than 150 miles connecting new plants to grid (HB 303)
- changed "certificate of environmental compatibility and public need" to "certificate of environmental compliance" (HB 443)
- reduced fees, except for those paid by the smallest projects (HB 443)
- shortened expedited review from 120 days to 90 days (HB 443)
- exempted Express Pipeline, the state's largest petroleum pipeline (SB 386)

Summary

Since its passage in its present form as the Major Facility Siting Act, only once has the Act seen a net strengthening (1983, when the exemption for federal projects was repealed). By contrast, this was the tenth session (1977, 1979, 1981, 1987, 1993, 1995, 1997, 1999, 2001, 2003) during which the Act was weakened.

References

• "A Guide to the Montana Major Facility Siting Act," MTDEQ, 2001.

• SB 319 (2001).

• HB 303, HB 443, SB 386 (2003).