

HB 292

EXHIBIT 4  
DATE 1/28/2011  
# 292

MONTANA ENVIRONMENTAL INFORMATION CENTER

# Highwood's future clear: "No coal-fired power plant"

by Anne Hedges

**We won!** In July 2010 the Montana Supreme Court ruled in favor of MEIC and 61 farmers and ranchers owning property near the proposed Highwood Generating Station. The Court ruled that Cascade County's rezoning of 680 acres of agricultural land to heavy industrial for the plant constituted illegal spot zoning. This was a landmark ruling that reaffirmed the role of zoning as an important and reliable tool for protecting property.

Southern Montana Electric Generation & Transmission Cooperative (SME), the plant's developer, immediately submitted a slew of new documents asking the Court to reconsider its decision. It also vowed to apply for a special use permit from the County that would allow it to build the plant despite the decision.

In order to avoid further lengthy battles in the courts, MEIC, the landowners, and SME decided to try to negotiate a settlement of their differences. With the help of a mediator (former Supreme Court justice Jim Regnier), those negotiations led to an agreement that prohibits SME and all future owners of the land from building a coal-fired plant at the site.

For nearly 10 years SME has been trying to build an electricity generating facility east of Great Falls. Originally it wanted to build a 250-megawatt coal-fired power plant. A year ago, after intense opposition, it dropped its coal proposal and decided to build a natural gas-fired plant. On numerous occasions, however, SME made clear its intention to build a coal plant in the future.

SME wasn't the only utility that thought this was a good location for a coal plant. In the 1980s, the Montana Power Co. actively considered this very location. The threat of a coal plant would have remained real unless a permanent restriction was placed on the land. That restriction is now signed, sealed, and delivered.

In addition to forever abandoning the coal plant, SME agreed to other conditions, including:

- ✔ Accepting permanent agricultural zoning for the site and dropping its request to the Supreme Court to reverse the spot zoning decision;
- ✔ Limiting the size of a natural gas-fired plant at the site to a maximum of 120 megawatts;
- ✔ Agreeing to meet restrictive noise limitations;
- ✔ Permanently protecting the 240 acres of the property that is within the Great Falls Portage National Historic Landmark;
- ✔ Negotiating with landowners for easements for transmission and utility lines instead of relying on eminent domain condemnation;
- ✔ Implementing an energy efficiency program for the plant; and
- ✔ Paying all of MEIC's attorney's fees.

SME has already applied for a special use permit from the County. The County Board of Adjustment will conduct a public hearing before deciding whether to issue the permit.

This long but successful campaign would not have been possible without the tenacity, patience, and efforts of MEIC's attorney, Roger Sullivan, and all of the neighboring landowners. Tammie Lynne Smith spent hundreds of hours pouring over legal documents and making sure her fellow plaintiffs were informed and had all of their questions answered. The Lassila and Kantola families put real faces on MEIC's efforts to protect the environment and public health. As the saying goes, it "takes a village," and it has been MEIC's pleasure to help protect this "village" near Great Falls. ☺

