

March 3, 2012

Judge upholds ruling on oilsands modules

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A district court judge in Montana has ruled the department of transportation has to do a more extensive environmental review of a plan by Imperial Oil for the shipment of oversized modules through the state to the \$10.9 billion Kearl oilsands construction project north of Fort McMurray, Alberta.

“We are disappointed that the judge upheld the preliminary injunction, which stopped permits from being issued,” said Imperial Oil spokesman Pius Rolheiser.

“We are looking at the judge’s decision in detail. The decision does not have any effect on modules that are currently being transported.

The ruling only applies to the Montana portion of Imperial’s original proposed route.”

District Court Judge Ray Dayton ruled that the Montana Department of Transportation failed to adequately consider the impacts of the Kearl Module Transportation Project (KMTP).

“The MDT (Montana Department of Transportation) could not meaningfully assess the impacts of the KMTP without determining as part of the environmental review process whether the turnouts would be permanent or temporary,” said the judge in the ruling.

“MDT, therefore violated MEPA (Montana Environmental Policy Act) and its implementing regulations by failing to determine whether the turnouts would be permanent or temporary and assess the impacts accordingly.”

This is an important consideration, because it determines whether the route will become a full-fledged industrial corridor for years to come.

According to the judge, the MDT’s decision approving the KMTP without properly assessing impacts associated with the construction of turnouts is arbitrary, capricious and not in accordance with the law.

The summary judgment was backed by four plaintiffs including Missoula County, National Wildlife Federation, Montana Environmental Information Centre and the Montana Chapter of the Sierra Club.

It ruled against the defendants, the Montana Department of Transportation and Imperial Oil.

“We still feel this route is feasible, but the judge’s ruling doesn’t have any direct impact on our current transportation plans,” said Rolheiser. “We are down to a handful of modules in Lewiston, which is virtually finished. Since September, we have been moving loads out of Pasco, Washington.”

Some remain opposed to the route and believe this is a major blow to the project.

“Shipping these modules on Highway 12 is not going to happen,” said Linwood Laughy, who established a website called Fighting Goliath, with his wife Borg Hendrickson, to fight the movement of mega-loads through Idaho.

“They have to have the last of these modules in Edmonton by the end of April to meet the construction deadline. Essentially they are whipped, as far as using this route for phase one, despite what they say.”

Roheiser said Imperial is following through with the legal process to uphold the environmental assessment work that was done as part of the original transportation plan.

“We can’t say whether we will or will not use the route in the future,” he said.

As part of the ruling, the judge also upheld a preliminary injunction issued in July 2011 against Imperial Oil’s plan to transport massive modules to the Kearl construction site in Alberta via U.S. Highway 12 and Montana Highway 200 in western Montana.

Imperial Oil, which is a subsidiary of Exxon Mobil Corp., awarded a US \$250 million contract to a South Korean manufacturer Sungjin Geotec Co to supply 207 giant pre-assembled modules to the Kearl oilsands project.

Modules are made up of machinery, specialized pressure vessels and heat exchangers.

Imperial arranged for the first 33 modules to arrive in the Port of Vancouver, Washington in late 2010, as part of the first phase of construction at the Kearl oilsands project.

These modules were transported by barge on the Columbia and Snake Rivers to Lewiston, Idaho and were supposed to move along U.S. Highway 12 to Montana.

However, opposition from the local community forced Imperial Oil to reduce the size and weight of the shipments and obtain permits for a new route.

Dayton also ruled that MDT needs to review Imperial Oil’s use of alternative routes to transport reconfigured modules.

All additional loads are being shipped from the Port of Pasco, WA, by truck on US 395 in Washington and along I-90 through Washington, Idaho and Montana, then north on I-15 to the Canadian border.

Construction at Kearl is scheduled for completion in late 2012, but some believe these problems will cause delays as the company struggles to bring parts to the site.

Rolheiser said there are currently about 100 loads left to be transported from Pasco.