

Lawsuit aims to block oilsands equipment delivery

Montana county against oversized loads on its roads

By Hanneke Brooymans, Edmonton Journal April 4, 2011

Commissioners from a Montana county joined environmental groups in filing a lawsuit Friday seeking to stop oversized loads of oilsands equipment from travelling local highways.

The parties will be in court again this week to file an injunction to stop the heavy haul project until the suit is resolved, said Tom France, a lawyer with the U.S. National Wildlife Federation.

The oilsands processing equipment was prefabricated in South Korea and is intended for Imperial Oil's Kearl project. It could be shipped through the state on Highway 200 in Missoula County, a picturesque area that inspired the movie *A River Runs Through It*.

France said the oversized loads are slated to be hauled along a secondary highway beside some of the state's most treasured trout streams and rivers. "It's a totally inappropriate use for these highways when we have industrial highways, four-lane interstates, that are really designed for this kind of traffic," he said Sunday.

"It's somewhat akin to bringing the heavy haul through Jasper and Banff. I suspect some Canadians would think, 'Wow, did we really have to do that?'"

The Montana Department of Transportation decided to allow Imperial Oil to move the 207 oversized loads over the state's highways to Alberta. The department now faces this lawsuit from Missoula County commissioners, the National Wildlife Federation, the Montana Environmental Information Center, the Montana chapter of the Sierra Club and the Western Environmental Law Center. No one from the Montana transportation department could be reached Sunday for comment.

To accommodate the oversized loads, Imperial Oil would have to make changes along the rural highways. These changes, the groups fear, would "pave the way for additional oversized industrial transports, and would have the effect of creating a permanent oversized industrial transportation corridor. In fact, other oil companies are already inquiring about using the corridor once it is built," the lawsuit says.

France said they are asking the Montana Department of Transportation to take a much harder look than they've taken to date on the impacts of this shipment and future shipments. "That's really the basic issue in the complaint, whether they've taken an

adequate look or not. And when they take that look, considering alternative routing is certainly something that should be first and foremost."

Imperial Oil spokesman Pius Rolheiser declined to say anything specific about the lawsuit. "It would be inappropriate for Imperial to comment on the legal action filed against (the Montana Department of Transportation), since Imperial is not named as a party in the action," he said in an e-mail. "We are continuing to work with transportation departments in Montana and Idaho to secure permits to allow us to transport oversized loads on state highways."

The county is particularly concerned about potential tourism impacts, said James McCubbin, Missoula County's deputy attorney. Highway 12, a possible route, gets a lot of RV and motorcycle traffic, he said. "There's some concern that if the pullouts along the way are blocked 24 hours in advance of use by any of these big rigs, that could essentially block out the whole corridor for essentially the entire tourism season. That could be really serious. If people can't pull off and enjoy the river along the way we have a real concern that that will decrease the use of the road for those purposes." Highway 200, also slated for use, is popular with locals and tourists, as well.

Cubbins said they're also concerned that pollution from all the brake pads could impact the streams, but the issue wasn't looked at thoroughly enough in the impact assessment "That's the gist of the lawsuit. It's not that we know there will be environmental problems or that we know it will kill tourism or anything like that. It's that these are issues the whole environmental review process are intended to address and they weren't adequately addressed."

Sarah McMillan, a lawyer with the Western Environmental Law Center, said de-icing chemicals would be pushed farther toward streams and rivers and additional sedimentation might affect bull trout. McMillan, who represents the Sierra Club and the Montana Environmental Law Center, said they agree with the other parties that there wasn't enough attention paid to environmental impacts.

Oilsands transportation projects through Idaho and Montana have been fraught with friction. ConocoPhillips also had legal hurdles to clear before it could get its Billings-bound equipment moving out of Idaho's Port of Lewiston. Last week, Bruce March, Imperial Oil's CEO, said they made the decision to order the units from Korea in the 2007-08 period when they couldn't get any space to have them manufactured in Edmonton shops in the time frame they needed.

The modules are up to 260 tonnes, 64 metres long and nine metres high. Thirty-three of them are now being broken apart in Idaho -at an estimated additional cost of \$500,000 per unit -so they can move as 60 smaller shipments on the Interstate highway.

The transportation of the modules through Alberta, should they ever get here, is less of an issue. Virtually all of the required work in Alberta has been done, Rolheiser said. "The work required was minor because Alberta has an established high-and-wide corridor that

has been used extensively in the past for oversized loads." Neither Imperial nor its carrier, Mammoet, has applied for the over-dimension load permits needed in Alberta.

hbrooymans@edmontonjournal.com