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Attorneys for Petitioners

**BEFORE THE DIRECTOR
OF THE IDAHO TRANSPORTATION DEPARTMENT**

LINWOOD LAUGHY, *et al.*,¹ and)
FRIENDS OF THE CLEARWATER)
)
Petitioners,)
)
v.)
)
IDAHO TRANSPORTATION)
DEPARTMENT,)
)
Respondent,)
)
)
EXXONMOBIL CANADA PROPERTIES,)
IMPERIAL OIL RESOURCE VENTURES)
LTD., and MAMMOET CANADA)
WESTERN LTD.,)
)
)
Applicants.)

**PETITION TO RECONSIDER
AND WITHDRAW ITD'S
FEBRUARY 14, 2011 DECISION
RE: EXXON/IMPERIAL
OVERLEGAL PERMITS FOR
HIGHWAY 12**

¹ As set forth in their Amended Petition To Intervene (filed November 30, 2010), the Laughy *et al.* Petitioners include Linwood Laughy, Karen Hendrickson, Peter Grubb, John Crock, Owen Fiore, Mary Ann Fiore, Janice Inghram, Roger Inghram, Julian Matthews, Ruth May, Jim May, Gail Ryan, and Richard Ryan.

TO THE HONORABLE BRIAN NESS, DIRECTOR OF THE IDAHO
TRANSPORTATION DEPT:

Pursuant to I.C. § 67-5246(4) and IDAPA §§ 04.11.01.152 & 04.11.01.230.d,
Linwood Laughy *et al.* and Friends of the Clearwater (“FOC”) respectfully petition the
Director of the Idaho Transportation Department (“ITD”) to **reconsider and withdraw**
the Final Decision dated February 14, 2011, by which ITD approved over-legal permits
sought by ExxonMobil Canada Properties and Imperial Oil Resource Ventures Ltd.
 (“Exxon/Imperial”), and their contractor Mammoet Canada Western Ltd. (“Mammoet”),
for transport of over 200 Kearn Module Transport Project mega-loads up U.S. Highway
12 from Lewiston to the Montana border.

In support of this Petition To Reconsider and Withdraw the February 14th
Decision, the Petitioners submit the following:

**I. EXXON/IMPERIAL ARE REDUCING THE KEARL MODULES
AND USING ALTERNATIVE ROUTES TO TRANSPORT THEM.**

Although I.C. § 67-5246 does not define standards to apply with respect to
petitions to reconsider, Idaho civil procedure rules underscore that reconsideration may
be appropriate when new facts or evidence emerge that were not previously considered,
and could change the outcome of the decision. *See, e.g.*, I.R.Civ.P. 59(a)(4); *Obendorf v.*
Terra Hug Spray Co., 145 Idaho 892, 188 P.3d 834, 844 (Idaho 2008).

Such new evidence is presented here, which the ITD Director obviously did not
consider in issuing the February 14th Decision – and which wholly undercuts the analysis
used in the February 14th Decision to approve the Exxon/Imperial mega-loads.

That evidence is set forth in the accompanying Affidavit of Gary Macfarlane,
Exhibits 1-2, in the form of media articles reporting that Exxon/Imperial have publicly

stated that they are now reducing the size of 33 Kearl Project modules currently at the Port of Lewiston, to be shipped via a different route than Highway 12; and are also shipping some 60 Kearl Project modules from the Port of Vancouver via the Interstate Highway System to the Kearl tar sands project in Alberta. *See* Macfarlane Affidavit, Exhs. 1-2 (Lewiston Tribute articles reporting these facts).

This new evidence directly undercuts the February 14th Final Decision, which asserts both that the Kearl Project modules cannot be practically reduced any further in size, and that Highway 12 is the only feasible route for their transport. Both assertions are now proven to be factually untrue, thus warranting reconsideration and withdrawal of the February 14th decision.

The recent news reports also call into question the veracity of Exxon/Imperial's assertions to the public at the open houses held in June 2010 that the Kearl Project modules cannot be reduced further in size and must be transported up Highway 12. The Intervenor is deeply troubled by these apparent misrepresentations, as should be the ITD Director. The public is entitled, at a minimum, to be given a thorough explanation of the true facts concerning the Exxon/Imperial mega-shipments. Reconsidering and withdrawing the February 14th decision is the appropriate step to ensure that the public is fully informed, and that ITD acts on full and accurate information as well.

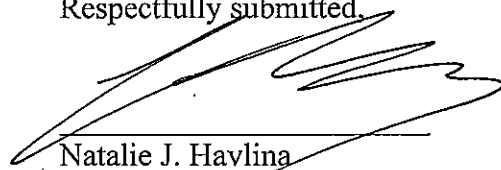
CONCLUSION

WHEREFORE, Petitioners Laughy *et al.* and FOC respectfully request that the ITD Director reconsider and withdraw the February 14, 2011 Final Decision approving the Exxon/Imperial overlegal permits.

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Dated this 23rd day of February, 2011.

Respectfully submitted,



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PROOF OF SERVICE


I HEREBY CERTIFY that on this 23rd day of February, 2011, I caused to be served the foregoing Petition to Reconsider and Withdraw February 14, 2011 Final Decision upon the following persons by the means indicated below:

Stephanie Wright
Idaho Transportation Department
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PO Box 7129
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Original, sent via first class mail

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A handwritten signature in black ink, appearing to read 'Kevin Beaton', written over a horizontal line.