

White Pine County Nuclear Waste Project Office

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July 10, 2008

Hon. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

RE: White Pine County, Nevada Comments to Finance Docket No. 35106 Department of Energy Application for a Certificate of Public Convenience and Necessity for the Caliente Rail Alignment

Dear Secretary Quinlan:

White Pine County, Nevada is providing these comments to the application of the Department of Energy ("DOE") referenced above, in accordance with the STB's decisions in this matter dated April 11, May 30, and June 13, 2008.

The DOE has requested an STB certificate authorizing its proposed 336-mile railroad across Nevada, which would be used to transport the nation's spent nuclear fuel and high-level radioactive waste to a proposed repository at Yucca Mountain, Nevada. While White Pine County supports DOE's willingness to make the proposed Caliente Rail Alignment available for commercial traffic, construction and operation of the line will impact public and private lands utilized by residents of White Pine County. The proposed rail alignment would cross public lands and may cross or otherwise impair private lands and improvements owned and/or operated by, or otherwise utilized by residents of White Pine County. In particular, White Pine County-based livestock operators owning permits to utilize public land grazing allotments to be crossed by the Caliente Rail Alignment may see the productive use and/or value of private base-property ranch lands in White Pine County impaired due to loss of or impaired use of public land grazing allotments and related private range improvements crossed by or otherwise impacted by the proposed Caliente Rail Alignment. White Pine County believes DOE must be required to fully identify and mitigate all direct, and indirect impacts of the Caliente Rail Alignment. In addition, the DOE should be required to develop and implement, in cooperation with affected parties, a process for monitoring actual impacts of the construction and operation of the line (particularly

- to identify any unanticipated impacts) and to monitor the effectiveness of all mitigation measures implemented by DOE. The STB is encouraged to condition any Certificate granted to DOE to ensure that all direct and indirect impacts are identified; appropriate measures to mitigate said impacts are implemented; and the effectiveness of mitigation monitored during construction and operation of the Caliente Rail Alignment.

At its nearest point, the Caliente Rail Alignment crosses just 20 miles south of the White Pine County line. White Pine County-based mining and agricultural enterprises utilize public and private land located within or proximate to the Caliente Rail alignment for a variety of enterprises. White Pine County residents are employed in enterprises located with or proximate to the Caliente Rail Alignment. Residents of White Pine County regularly utilize public lands crossed by or proximate to the Caliente Rail Alignment for recreational purposes.

The Caliente Rail Alignment will result in a wide variety of impacts to private and public land resources in neighboring Lincoln County and Nye County utilized by residents and industries based in White Pine County. As a consequence, construction and operation of the rail line to Yucca Mountain may impact the economy of White Pine County and the characteristic way of life for some White Pine County residents. If fully identified and evaluated, many of the potential impacts may be avoided or minimized through design and implementation of appropriate mitigation measures. To the extent that potential impacts are not fully identified and properly evaluated, the rail line may result in unanticipated and unmitigated impacts. White Pine County urges STB to require that all Caliente Rail Alignment impacts, both direct and indirect, regardless of their significance, be mitigated by DOE.

Access to public land in the vicinity of the Caliente Rail Alignment must be ensured during construction and operation of the line. Notwithstanding DOE's stated intent to allow public access along and across the Caliente Rail Alignment to enable continued access to adjacent public lands, White Pine County is concerned that Department of Homeland Security restrictions may impede access to public lands. STB is encouraged to require DOE to ensure that maintenance to public land is not in any way impeded by construction and operation of the Caliente Rail Alignment.

White Pine County encourages STB to require that mitigation for impacts to private and public land resources be designed, funded and implemented as soon after a decision to construct and operate the Caliente Rail Alignment is made. Implementation of mitigation during pre-construction phases of the project will be required for many types of impacts to ensure that consequences of construction are effectively avoided or minimized. This may require that mitigation be planned, funding secured, and implementation completed three-four years prior to the start of construction on the rail line and related facilities.

The Taylor Grazing Act requires ownership of "base property" in order to receive a permit to graze domestic livestock on public land. Base property can be either land based, which requires private ownership of and/or access to a commensurate amount of private land, or water based, which requires ownership of and/or access to rights to quantities of water required to sustain the number of livestock for which a grazing permit is sought. DOE NEPA documents

supporting the Caliente Rail Alignment generally fail to identify the private base properties in White Pine County which are required for holders of certain public land grazing permits authorizing grazing on allotments in Lincoln and Nye counties which will be crossed by the Caliente Rail Alignment. DOE NEPA documents also fail to identify any impacts to the efficient utilization or value to said private base properties which may result from construction and operation of the Caliente Rail Alignment and related loss of or impaired use of public land grazing allotments

Likely impacts to public land grazing include: loss of functionality for existing fencing; destruction of capital improvements, destruction or loss of functionality of water sources, stockwaters, and pipelines; loss or restriction of access to allotments; temporary and permanent loss of forage; fragmentation of allotments, loss or restriction of livestock movement and distribution within allotments, establishment of invasive species; establishment of noxious weeds, short-term deferment or loss of grazing rights due to construction, and long-term deferment or loss of grazing rights due to operations. DOE's application to STB discloses none of these impacts and no mitigation has been committed to by DOE to address said impacts.

To ensure that impacts to public and private land use enjoyed by White Pine County businesses and residents are effectively mitigated, the following measures are provided to aid STB in seeking to mitigate impacts of the Caliente Rail Alignment.

- If the right-of-way is fenced it should be done in such a manner as to allow wildlife crossing while preventing a breach from livestock.
- Temporary fencing or other delineation of the immediate areas of authorized construction disturbance to avoid any larger than necessary land disturbance
- A requirement to stockpile the topsoil from construction disturbed areas
- In-road cattle guards and gates at exiting fence crossings
- Range and wildlife improvements, including corrals, chutes, guzzlers, pipelines, windmills, wells and other infrastructure that would be directly or indirectly impacted will need to be relocated
- If the right-of-way is fenced it will be imperative to construct the fence to wildlife specifications
- Crossings, including underpasses, will need to be constructed to maintain customary movement of livestock and wildlife
- The DOE should be required identify and implement all possible measures to minimize livestock and wildlife loss due to train collisions, including right-of-way fencing with proper maintenance, appropriate crossing structures, relocation of water sources within a mile of the track, and reduced train speeds
- DOE should be required to minimize land disturbance and water usage

Because of its proximity to portions of the Caliente Rail Alignment and existing mutual aid agreements with emergency service providers in Lincoln and Nye counties, emergency response systems in White Pine County may be impacted by construction and operation of the Caliente Rail Alignment. In addition, the State of Nevada has made a preliminary determination that U.S. 93 and U.S. 6 through White Pine County will be a likely state-designated alternate route (to transport through the Las Vegas metropolitan area) for the 2,500 or so highway shipments of spent nuclear fuel to be shipped by truck to the Yucca Mountain site. In the event that the Caliente Rail Alignment were to go out of service for some extended period of time, the number of truck shipments of spent nuclear fuel and other high-level radioactive waste through White Pine County would likely increase. White Pine County emergency first responders are generally not trained nor do they have access to equipment or facilities required to handle emergencies involving radiological contaminated persons. This issue was not addressed in DOE's NEPA documents. Any increase in demands on fire and ambulance crews, emergency medical technicians and medical facilities associated with the rail line will impair the availability of these emergency resources to respond to non-rail alignment emergencies. White Pine County must have the capability of handling this additional burden without compromising service to existing communities or to visitors and tourists. Although Section 180(c) of the Nuclear Waste Policy Act, as amended, does require DOE to provide funding for emergency response training, said funding is provided to States and Indian Tribes, not affected communities. Section 180(c) funding would not be sufficient to meet emergency management needs of White Pine County. The following measures may mitigate the effects of the additional burden on emergency services:

- DOE should be required to fund necessary equipment, facility upgrades and training of White Pine County emergency first responders (including fire, ambulance and hospital)
- A contingency fund for grants to cover additional staff time and equipment in the event of a radiological emergency must be established by DOE
- In addition to financial support and training, DOE should be required to take a proactive and positive role in helping White Pine County with emergency planning for a radiological event. This should include:
 - a) Providing guidance for appropriate levels of community preparedness, training, equipment, and response procedures.
 - b) Clarifying responsibilities in response planning between the federal, state, and local governments, as well as between federal agencies, such as FEMA, DOE, and EPA.
 - c) Taking responsibility to ensure (perhaps through certification training) that White Pine County emergency first responders have the necessary training and equipment to handle an accident involving a radiological release.
- DOE should provide funds to upgrade hospital facilities and to accommodate the additional demands for basic and radiological related service. This would include

DOE funding to modify hospital facilities to provide the capability for radiological quarantine in the event that persons contaminated with radiation are admitted for initial treatment.

It is very likely that truck traffic through White Pine County will increase dramatically as vehicles carrying equipment and construction materials access the Caliente Rail Alignment from I-80 south through White Pine County on U S 93 connecting with both U S. 6 and S.R. 318, which cross the rail alignment. As a result truck related accident rates will likely increase in the County as will truck related congestion and travel impediments. This issue was not addressed within the DOE's NEPA documents. Measures to mitigate Caliente Rail Alignment related traffic impacts in White Pine County might include:

- DOE should be required to assist White Pine County in developing and implementing a traffic impact monitoring and mitigation plan

The economy of White Pine County and its principal community, the City of Ely, is heavily dependent upon vehicular traffic and related traveler services along U S. 93, U.S. 6 and SR. 318, all of which will be crossed by the Caliente Rail alignment in neighboring Lincoln and Nye counties. In the event that a rail incident/accident involving nuclear waste were to occur along the Caliente Rail alignment in the vicinity of U.S. 93, U S. 6 or SR 318 it is possible that media amplified negative public perceptions of risk may significantly reduce, at least on a temporary basis, highway traffic through White Pine County and the City of Ely. Such a reduction in traffic would result in reductions in traveler spending and related fiscal impacts to the County and City. In its recent Rail Alignment DEIS and recently released Rail Alignment FEIS, DOE elected not to analyze in any detail potential impacts associated with Rail Alignment related public perception of risks and related stigma.

Although the DOE considers the chance of transportation accident with significant environmental and health consequences along the Caliente Rail Alignment to be a low probability, that chance nevertheless cannot be ignored and could produce serious economic and fiscal impacts. Business disruption may result in lost sales revenue and lost wages for employees. Depending on the length of the disruption, existing businesses may experience irreversible effects.

In the event of an accident along the Caliente Rail Alignment in the vicinity of U S 93, U S 6 or SR 318, traffic along these highways may be reduced for some unknown period of time. An incident involving little risk of exposure but receiving wide media coverage could result in stigma-induced reductions in traffic along these highways. Measures to mitigate the impacts of negative perceptions of risk and stigma related to the Caliente Rail alignment might include:

- DOE should assist White Pine County in developing and implementation of a monitoring system to detect if there are negative impacts on traveler related economic and fiscal activity due to the Caliente Rail Alignment. The monitoring system should be capable of detecting changes in traffic and related spending

under non incident/accident conditions as well as in the event of a transportation incident/accident

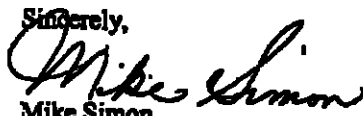
- Impact thresholds should be established at which predetermined mechanisms for compensating businesses and local government impacted by reductions in traffic and traveler related economic and fiscal activity.
- DOE should assist White Pine County in developing and funding a standby tourism marketing campaign to be implemented immediately following any incident/accident involving a radioactive waste shipment along the Caliente Rail alignment in the vicinity of U.S 93, U.S 6 or SR 318

White Pine County should be empowered by the following measures to monitor and evaluate the effectiveness of DOE's implementation of measures to mitigate the impacts of the Caliente Rail alignment.

- DOE should provide funding to White Pine County to enable it to independently monitor the effectiveness of mitigation measures implemented by DOE
- DOE should be required to submit quarterly mitigation compliance/effectiveness reports to White Pine County for the duration of the construction and operation of the Caliente Rail Alignment
- Where monitoring demonstrates that implementation of one or more of the aforementioned mitigation measures has been ineffective, DOE should be required to work with White Pine County to identify and implement alternative measures to mitigate the relevant impact.

White Pine County appreciates the opportunity to offer these comments to STB. The County encourages STB to hold one or more hearings to address the comments included in this letter and/or requests the opportunity to meet with STB staff to discuss our comments further. The County requests that STB condition the DOE requested Certificate of Public Convenience and Necessity with a comprehensive suite of measures intended to avoid, minimize or otherwise mitigate (including compensation when appropriate) potential impacts of the Caliente Rail Alignment. White Pine County believes the measures outlined in this letter to address the potential impacts of the Caliente Rail Alignment in White Pine County.

Should you have any questions regarding these comments, please do not hesitate to contact me.

Sincerely,

Mike Simon
Director

July 11, 2008

Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E. Street, S.W
Washington, D C. 20423

RE White Pine County, Nevada Comments to Finance Docket No. 35106- Department
of Energy Application for a Certificate of Public Convenience and Necessity for the
Caliente Rail Alignment

Dear Acting Secretary Quinlan:

Pursuant to the June 27, 2008 Notice served in the above-entitled proceeding, the
attached certificate of service certifies that the subject document filed today by White
Pine County, Nevada have been served on each Party of Record.

This filing is being e-filed on behalf of White Pine County, Nevada

Sincerely,



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cc. Mike Simon, White Pine County Nuclear Waste Project Office

CERTIFICATE OF SERVICE

I hereby certify that I have caused the document entitled, "White Pine County, Nevada
Comments to Finance Docket No. 35106. Department of Energy Application for a
Certificate of Public Convenience and Necessity for the Caliente Rail Alignment" which
is being electronically filed with the Surface Transportation Board today on behalf of
White Pine County, Nevada to be served on each Party of Record by e-mail or first class
mail .



Mike Baughman
July 11, 2008
