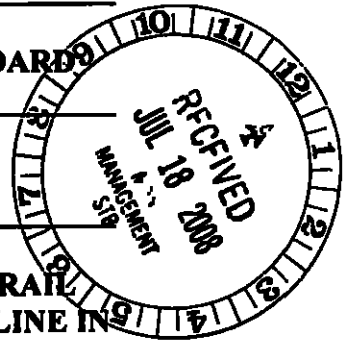


222984

UNITED STATES OF AMERICA

BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35106



UNITED STATES DEPARTMENT OF ENERGY – RAIL
CONSTRUCTION AND OPERATION – CALIENTE LINE IN
LINCOLN, NYE, AND ESMERELDA COUNTIES, NEVADA

COMMENTS OF MINERAL COUNTY, NEVADA
July 10, 2008

Linda Mathias
Director, Mineral County Nuclear Projects Office
PO Box 1600
Hawthorne NV 89415
Tel: 775.945.2484
Fax: 775.945.0702
Cell: 775.945.0307

ENTERED
Office of Proceedings
JUL 18 2008
Part of
Public Record

The Department of Energy (DOE) recently submitted their License Application (LA) (June 3rd) to construct and operate a high-level nuclear waste repository to the Nuclear Regulatory Commission. The LA includes the *Supplemental Rail Corridor and Rail Alignment Environmental Impact Statements* to construction and operation a railroad in Nevada to the proposed Yucca Mountain Geologic Repository in Nye County, Nevada. Mineral County has an obvious stake in all aspects of the repository development process, but most significantly the siting and operation of the proposed rail line. Our specific concerns centers on the belief that more optimal rail options exist and until such time as there is sufficient certainty that the license to construct the repository will be approved, DOE should avoid actions that preclude further consideration of other rail corridors within Nevada, specifically the Mina corridor. By excluding the Mina corridor the potential economic impacts are tremendous to our County and the cost to the nation to construct a new rail system in Nevada dictates that any such construction considers maximum benefits to be derived and that the rail corridor selection should be based on an integrated strategy for coordinated community development in central Nevada.

We also state our belief that a through going route provides significantly greater infrastructure efficiency and economic benefits to the regional rail system as opposed to the 300-mile dead-end spur line proposed by DOE. This belief is founded on very specific data included in the Rail Transportation Economic Impact Evaluation &

Planning for Mina & Caliente Corridors (prepared for Nye County, May 2007) and the Rail Transportation Economic Impact Evaluation and Planning Study for the Caliente and Mina Corridors (prepared for Nye County by Wilbur Smith Associates and URS Corporation, August 2007).

The DOE did acknowledge that the environmental impacts and possible cost savings in: the Amended Notice of Intent To Expand the Scope of the Environmental Impact Statement for the Alignment, Construction and Operation of a Rail Line to a Geologic Repository at Yucca Mountain, Nye County, NV ROD dated October 13, 2006 and also the Mina Feasibility Study, prepared by Bechtel SAIC Co., LLC dated October 25, 2006. However, they are not anywhere as detailed as the two previous studies mentioned above.

We would also like to add the following comments to support our views and our request to you to consider the following prior to any approval without conditions.

- The environmental impacts of the Mina corridor are less than those associated with the Caliente Corridor. The Mina corridor is shorter, major portions of which are along existing and prior disturbed rail beds,
- The Mina route has fewer mountain crossings. Construction of the Mina corridor should be less difficult and less expensive, at least \$500 million by DOE's estimates,
- The Caliente corridor traverses areas of Nevada that were subject to significant radioactive fallout from nuclear weapons tests which will be disturbed during construction and have not been studied for radioactivity.
- The DOE did not sufficiently or thoroughly study the Mina 6 or alternatives of the 6a route as outlined in our comments to the EIS.

We respectfully request that the following conditions be included as part of STB's approval of the requested action:

- That the STB direct DOE to avoid or at least delay decisions that limit or preclude other rail transportation options until there is certainty that the repository will have a license to construct. These conditions are:
 - that DOE be directed to accomplish a radiological survey of those areas of the Caliente corridor that were subject to weapons test fallout to determine construction and worker safety impacts,
 - DOE delay issuance of a Record of Decision on the Caliente Corridor until a license to construct is assured,
 - DOE preserve or at least assist with the preservation of the right of way associated with the Mina Corridor for at least the next four (4) years, i.e., through CY2012, and
 - That in the meantime, DOE study the merits and potential impacts that spent fuel shipments will have on commercial rail shipments on the primary east to west rail systems, and how DOE's National Plan for the Shipment of Spent Nuclear Fuel would be enhanced by a through going rail system.

Certificate of Service

I, Linda Mathias, hereby certify that this 11th day of July 2008: (i) the original and ten (10) true and correct copies of the COMMENTS OF PARTIES OF RECORD MINERAL COUNTY NUCLEAR PROJECTS OFFICE Comments, were delivered to the Surface Transportation Board by deposit by first-class U.S. mail, postage prepaid, addressed to:

Hon. Anne K. Quinlan, Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-001

and, (ii) one (1) true and correct copy of the attached Comments was delivered to each of the counsel of record and others identified below, by (a) deposit in first-class U.S. mail, postage prepaid, addressed as shown below, or (b) e-mail addressed as shown below:

LIST OF PARTIES OF RECORD

Paul H. Lamboley
50 West Liberty Street
Bank of America Plaza, Suite 645
Reno, NV 89501
phlamboley@aol.com

Robert Alan Kemp
North Central Railroad
Aviation Technologies Ltd.
4959 Talbot Lane, Unit #69
Reno, NV 89509

Honorable Shelley Berkley
U.S. House of Representatives
405 Cannon House Office Building
Washington, DC 20515

Louis E. Gitomer
The Adams Building
600 Baltimore Avenue, Suite 301
Towson, MD 21204
Lou_gitomer@verizon.net

Paul R. Hitchcock
Associate General Counsel
CSX Transportation, Inc
500 Water Street
Jacksonville, FL 32202

David Wright
Nuclear Waste Strategy Coalition
P.O. Box 5233
Pinehurst, NC 28374
thenwsc@nc.rr.com

Fred Millar, Ph.D.
Consultant
Friends of the Earth
915 S. Buchanan Street, Apt. 29
Arlington, VA 22204
fmillar@crols.com

John E. Hadder
Healing Ourselves & Mother Earth
P.O. Box 6595
Reno, NV 89513
hadder@gbis.com

Gregory Barlow, Esq.
Lincoln County District Attorney
P.O. Box 90
Pioche, NV 89043
lcda@lcturbonet.com

Barry S. Neuman, Esq.
Carter Ledyard & Milburn LLP
701 8th Street, N.W., Suite 410
Washington, DC 20001
neuman@clm.com

Ethan Strell, Esq.
Carter Ledyard & Milburn LLP
2 Wall Street
New York, NY 10005
strell@clm.com

Bret Whipple, Esq.
1100 South 10th Street
Las Vegas, NV 89104
bretwhipple@mailsnare.net

Mike Baughman, Ph.D.
Intertech Services Corporation
P.O. Box 2008
Carson City, NV 89702
bifoff@aol.com

G. Paul Moates, Esq.
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005
pmoates@sidley.com

Kevin Phillips
Mayor, City of Caliente
P.O. Box 158
Caliente, NV 89008
Kevin@lcturbonet.com

John Brown, Esq.
Brown and Frehner, LLP
P.O. Box 656
Alamo, NV 89001
johnbrownlaw@gmail.com

Kevin W. Bell, Esq.
Senior Staff Counsel
California Energy Commission
1516 9th Street
Sacramento, CA 95814
kwbell@energy.state.ca.us

Gracian Uhalde
P.O. Box 151088
Ely, NV 89315

Deborah Teske
Lander County
315 S. Humboldt Street
Battle Mountain, NV 89820
dteske@landercounty.org

Gene P. Etcheverry
Lander County Executive Director
315 S. Humboldt Street
Battle Mountain, NV 89820
dteske@landercounty.org

Robert Alan Kemp
Aviation Technologies Ltd.
4959 Talbot Lane, Unit #69
Reno, NV 89509

Bradley L. Levine
United States Department of Energy
Office of the General Counsel (GC-52)
1000 Independence Avenue, SW
Washington, DC 20008
Bradley.Levine@hq.doe.gov

Merlin R. Flake
Chairman
N-4 State Grazing Board
Bassett Creek Ranch
HC33, Box 33940
Ely, NV 89301

John McLain
Resource Concepts, Inc.
340 N. Minnesota Street
Carson City, NV 89703-4152
johnm@rci-nv.com

Connie Simkins
Secretary to N-4 Grazing Board
P.O. Box 461
Panaca, NV 89042
ninescattle@yahoo.com

Michael S. Cyphers
Emergency Management Coordinator
City of Henderson
240 S. Water Street, MSC #133
Henderson, NV 89015
michael.cyphers@cityofhenderson.com

Robert T. Opal, Esq.
General Commerce and FRA Counsel
Union Pacific Railroad Company
1400 Douglas Street, Stop 1580
Omaha, NE 68179
rtopal@up.com

R. J. Gillum
Vice Chairman
Board of County Commissioners for
Esmeralda County
P.O. Box 490
Goldfield, NV 89013

Edwin Mueller
Esmeralda County Oversight Director
Yucca Mountain Project
P.O. Box 490
Goldfield, NV 89013
meullered@msn.com

Mike Simon
Director
White Pine County Nuclear Waste
Project Office
959 Campton Street
Ely, NV 89301
wpnucwstl@mwpower.net

Rochelle Becker
Alliance for Nuclear Responsibility
P.O. Box 1328
San Luis Obispo, CA 93406
Rochelle@a4nr.org

Michael A. Bauser
Nuclear Energy Institute
1776 I Street, N.W.,
Washington, DC 20006
mab@nei.org

Michael and Mary Heizer
Triple Aught Foundation
P.O. Box 33
Hike, NV 89017
ksonnenbom@diaart.org

Jeffrey D. Van Niel
530 Farrington Court
Las Vegas, NV 89123
nbrjdv@gmail.com

Margene Bullcreek
President
Native Community Action Council
P.O. Box 155
Tooele UT 84074
mbullcreek@yahoo.com

Pamela M. Fischhaber
Colorado Public Utilities
Commission
1560 Broadway, Suite 250
Denver, CO 80202
Pamela.fischhaber@dora.state.co.us

Edmund G. Brown, Jr.
State of California Department of
Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244
Susan.durbin@doj.ca.gov

Joe Kennedy
Chairman
Timbisha Shoshone
785 N. Main Street, Suite Q
Bishop, CA 93514
chairperson@timbisha.org
elent@timbisha.org

Joe Fallini
Twin Springs Ranch
HC-76, Box 1100
Tonopah, NV 89049

Laura Raicovich
Deputy Director
Dia Art Foundation
535 West 22nd Street
New York, NY 10011

Katie Sonnenborn
Dia Art Foundation
535 West 22nd Street
New York, NY 10011
ksonnenborn@diaart.org

Bradford R. Jerbic
City of Las Vegas
Office of the City Attorney
400 Stewart Avenue, Ninth Floor
Las Vegas, NV 89101-2986
bjerbic@lasvegasnevada.gov

Joseph R. Egan
Martin G. Malsch, Esq.
Charles J. Fitzpatrick, Esq.
Egan Fitzpatrick & Malsch
12500 San Pedro Avenue, Suite 555
San Antonio, TX 78216
mmalsch@nuclearlawyer.com

Catherine Cortez Masto, esq.
Attorney General
Marta A. Adams, Esq.
Senior Deputy Attorney General
Office of the Attorney General
of the State of Nevada
100 North Carson Street
Carson City, NV 89701
MAdams@ag.nv.gov

Merril Hirsh, Esq.
William H. Briggs, Esq.
Ross Dixon & Bell
2001 K Street, N.W., 4th Floor
Washington, DC 20006-1040
mhirsh@rdblaw.com

Director,
Office of Civilian Radioactive
Waste Management
United States Department of Energy
1000 Independence Avenue, SW
United States Department of Energy
Washington, DC 20585

Director,
Office of Logistics Management
United States Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Assistant General Counsel for Civilian
Nuclear Programs
ATTN: Bradley L. Levine
United States Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585
Bradley.Levine@hq.doe.gov

Hon. Jim Gibbons
Governor, State of Nevada
State Capitol Building
101 N. Carson Street
Carson City, NV 89701

Hon. Carlos M. Gutierrez
Secretary
United States Department of
Transportation
1401 Constitution Ave., NW
Washington, DC 20230

Hon. Mary E. Peters
Secretary
United States Department of
Commerce
1200 New Jersey Ave., SE
Washington, DC 20590

Office of Chief Counsel
Federal Railroad Administration
1200 New Jersey Ave., SE
Washington, DC 20590

Office of Safety
Federal Railroad Administration
1200 New Jersey Ave., SE
Washington, DC 20590

Joni Eastley
Nye County Board of County
Commissioners
101 Radar Road
Tonopah, NV 89409
castle@lnett.com

Alan Kalt
Churchill County Comptroller
155 N. Taylor Street, Suite 182
Fallon, NV 89406-2748
comptroller@churchillcounty.org

Rex Massey
P.O. Box 19549
Reno, NV 89511
Rexmassey@aol.com

Philip Klevorick
Clark County Nuclear Waste Division
500 South Grand Parkway
P.O. Box 55175
Las Vegas, NV 89155-1751
Klevorick@co.clark.nv.us

Elizabeth A. Vibert
Deputy District Attorney
Clark County District Attorney
500 South Grand Central Parkway
P.O. Box 552215
Las Vegas, NV 89155-2215
Vibert@co.clark.nv.us

David A. Hirsh
Harkins Cunningham LLP
1700 K Street, N.W., Suite 400
Washington, D.C. 20006-3804

George A. Aspatore
General Solicitor-Regulation
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

Ellen C. Ginsberg
Nuclear Energy Institute
1776 I Street, N.W.
Washington, DC 20006
ecg@nei.org



Linda Mathias, Director
Mineral County Nuclear Projects