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OFFICE OF THE DISTRICT ATTORNEY
OF CHURCHILL COUNTY

29 November, 2006

RECEIVED BY OCRWM CCU

DATE: 12/01/2006

Mr. M. Lee Bishop
EIS Document Manager
Office of Logistics Management
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
1551 Hillshire Drive, M/S 011
Las Vegas, Nevada 89134

Sent Via Facsimile to (800) 967-0739 and E-Mail to www.ocrwm.doe.gov.

Re: Scoping Comments Relating to the Department of Energy's Intent to Expand the Scope of the Rail Corridor and Alignment Environmental Impact Statement (EIS) to Include the Study of the Mina Corridor Alternative in Addition to the Caliente Rail Corridor (Federal Register/Vol. 31, No. 198 / Friday, October 13, 2006 / Notices / 60484) (Deadline: December 12, 2006).

Dear Mr. Bishop:

Pursuant to notice given by the United States Department of Energy, Office of Civilian Radioactive Waste Management, for scoping hearings to be conducted in Northern Nevada, during the month of November, 2006, and for solicitation of oral or written comments, the Churchill County District Attorney's Office, here comments, in the above-captioned matter, as follows:

General Comments

- 1 A portion of the new alignment on the Mina Route passes through Churchill County, Nevada. Accordingly, the interests of the people of Churchill County, Nevada are implicated and should be considered in the environmental impact statement (EIS) to be performed.
2. The present estimated population for Churchill County, Nevada for the year 2006 is approximately 28,000.(Source: Churchill County Master Plan, p. 2-5 (2005).

3. The estimated population for the year 2025 is approximately 53,660 (Source: Churchill County Master Plan, p. 2-5 (2005)).
4. Population increase occurs in Churchill County, at a rate of approximately 3 to 5 percent annually. (Source: Churchill County Master Plan, p. 2-5 (2005) (Estimates from Nevada Department of Taxation and Nevada State Demographer, and University of Nevada).
5. Population growth in the county, pursuant to the Churchill County Master Plan, is being directed westward on U.S. Highway 50A (the Reno Highway -toward the Hazen area) (Churchill County Master Plan: Growth Bubble Map (2005)).
6. A significant industrial park with an adjacent residential component (2,500 homes) is being planned for the Hazen, Nevada area, at or near the point through which the railroad is located in the county (Great Basin Industrial Park and Mathews Homes).
7. Churchill County, Nevada, is a recreational center providing access to Sand Mountain, located East of Fallon on U.S. Highway 50 and Lahontan Reservoir to the West on U.S Highway 50. As many as Five Thousand (5,000) persons may frequent these recreation sites on a given weekend in season -an estimated Four Hundred Thousand (400,000) persons annually. Many such persons travel by motor vehicle between Fernley, Nevada and the Fallon area -crossing that portion of the new alignment near Hazen. Alternatively, motorists travel from the west to Churchill County, on U.S. Highway 50 again crossing a portion of the alignment in Lyon, County.
8. Fallon, Nevada is the site of one of this country's most important military facilities: Naval Air Station Fallon, located to the south and east of Fallon.
9. Located to the east of Fallon is the Stillwater National Wildlife Refuge.
10. A present-developing trend for Churchill County is the location of persons from other states upon retirement.
11. Fallon, Nevada is located approximately 30 miles to the west and south of access to Interstate 80 (I-80). U.S. Highway 95 traverses the county from north to south. U.S. Highway 50 traverses the county of east to west.
12. The EIS, in an expanded scope, must comprehend an evaluation of all of the foregoing facts

(general comments 1-11).

13. The EIS, in an expanded scope, must address the specific questions posed hereinafter.

II.

**Specific Comments Relating To:
Economic Impacts and Future Industrial Development Impacts**

Presently, regular freight is being transported on the existing Union Pacific Line at the northern most end of the proposed Mina alignment corridor in Churchill County, Nevada.

What restrictions are to be imposed upon existing commercial uses of the track during the term that radioactive materials are to be shipped by rail?

Assuming an increase in the volume of rail traffic, on the Mina line, for both commercial and radioactive materials shipment, what new rail and associated facilities, including crossings, will be anticipated?

What is the anticipated level of cooperation with the Union Pacific Railroad for the installation of rail facilities to allow for creation of new line and new main line turnouts?

What will the impact of the creation of new line and new main line turnouts to roadways in the Hazen area?

Will a reconfiguration of existing roads be necessary in the Hazen area?

Will closure of the existing crossing be made necessary?

What will be the total number of anticipated crossings be?

What is the total volume of shipments anticipated from all sources on the Mina line?

Will regular commercial traffic be interrupted by radioactive material shipment?

Does the project contemplate a staging or storage yard facility on the Hazen end?

If a staging or storage yard facility is contemplated, what will be the area of such?

Will it be secured?

How will it be secured?

What manpower will be required to ensure security?

What limitations may be imposed on the development of any commercial or housing in the area?

What resources will be necessary to support a staging or storage facility?

2. The proposed Mina Corridor Alignment crosses U.S. Highway 50A at Hazen. The Highway is presently being widened from 2 to 4 lines of vehicle travel.

What effect, if any, will radioactive transport have upon the highway?

Assuming the existence of an above-grade railroad crossing, will any interruption in the flow of vehicular traffic be imposed upon the highway.

What will be the speed of any trains traveling from the Hazen area?

What specific topographic characteristics exist, related to the proposed corridor, that may limit rail-speed accident concerns/factors?

3. Churchill County, Nevada has an interest in the development of railway access facilities in the Hazen area for purposes of economic development

Will commercial users of rail facilities be subject to scheduling limitations relating to shipments?

Will commercial user fees be increased?

Will commercial users be subjected to any level of uncertainty relating to the receiving or sending of their goods?

What extraordinary operational challenges will be imposed upon regular freight?

Will radioactive materials be extended shipping priority?

4. Assuming the need for the creation of staging/storing/transfer/switching facilities in the

Hazen area, an impact may be had on the civilian job market. Increased rail traffic through the county should bring with it a corresponding benefit to the community.

To what extent, if at all, will area jobs be created?

To what extent, if at all, will area businesses be consulted in the creation of employment opportunities?

Assuming the creation of jobs in Churchill County, what will be a likely number?

5. Planning is currently underway for the creation of an industrial park, with rail access, in the Hazen area. The study must account for present and future efforts to define the Hazen area for commercial activity.

To what extent will the study incorporate present planning?

To what extent will the study anticipate future commercial development planned for the Hazen area?

To what extent will rail access be preserved to allow for commercial activity in the vicinity of Hazen?

6. An impact is foreseeable regarding secondary employment, where permanent jobs have been created in the county. The scope of impact upon the job market, primary and secondary, is of interest to the county.

What estimates of a secondary employment market are to be made?

The transportation of radioactive materials through any state necessarily implicates other economic considerations, such as property valuations and effect upon tourism. The expanded scope must consider such.

What considerations may be made to allow for any diminution to property values in the area?

What considerations may provide for mitigation to damages?

III.

Local Public Safety Impacts

1. The presence of a radioactive materials in Churchill County represents a potential for more emergency response funding, including personnel and equipment, at the local level. The study must include a component of the processes which local government may undertake, including funding sources, to develop necessary infrastructure to address all aspects of public safety.

Will a need exist for additional local personnel?

How many?

Equipment?

What type?

What additional local spending is reasonably foreseeable?

What level of specialized training will be required of any local personnel?

Will funds be made available to assist local government?

2. The presence of radioactive materials in Churchill County may represent a potential target for terrorism related conduct.

What security forces will be responsible for ensuring transportation security?

Will they work closely with local law enforcement?

What agency of government will coordinate or oversee such concerns?

Will the military assist in any aspect of radioactive material transport?

3. The movement of radioactive materials creates the possibility of accident within the county.
Assuming a derailment, and compromise to canisters exposing radioactive materials, what

is the zone of influence?

What is the scope or size of the area that would need to be secured?

Would local emergency response personnel be responsible for such actions? — — — — —

What would be the scope of involvement by the Churchill County Sheriff's Department?

The Fire Department?

4. In preparing for transport of radioactive materials, analysis has been conducted by study, as to radiation exposure. The identity of such studies should be disclosed to the county.

5. Security enhancing infrastructure is called for.

How will surveillance be undertaken?

Will a central security location be created?

Who will guards answer to?

IV.

Railroad Safety Impacts

1. Because of the nature of the material being transported, strict operating criteria will be imposed upon rail operators.

What are the likely rules of operation?

Will materials be transported at slower speeds to eliminate high-speed accident potential?

Is a higher speed appropriate so as to minimize exposure of an area to radioactive materials?

Will the DOE monitor operation criteria?

If not, which agency will?

What remedies will exist for a community if safety criteria is not observed by an operator?

2. Corridor Safety considerations may require the development, in certain areas, of double tracks to allow for more full use of the railway corridor.

Where would such double tracks be located?

What provisions, if any, would be made for security in such areas?

Would permanent facilities need to be placed in such areas?

Will movement of radioactive materials be undertaken independent of coordination of regular traffic?

What is the communication system between the secure movement component of rail traffic and regular traffic likely to be?

3. Rail traffic along the entire corridor will have an impact upon existing railroad crossings. Such impact must be evaluated.

What changes will be made to existing crossings within the corridor, with the goal of enhancing public safety?

What changes are likely to be made relating to vehicular traffic near crossings?

Will transports likely occur at times and intervals that will disrupt regular traffic patterns?

4. The railway bed and associated track must meet FRA criteria for track class and running speed.

What is the state of the existing track?

How much will need to be replaced?

5. The railway must continue to allow for other compatible uses within the right-of-way.

The study must evaluate the continued sharing of facilities within the right-of-way, such as jet fuel lines or other utility lines.

6. U.S. Highway 95 South is an important truck route. Passing over that route routinely are tankers filled with fuel, flammable, or otherwise hazardous materials. The study must comprehend evaluation of safety considerations calculated to minimize traffic accidents.
7. National railway operations, for any number of reasons, such as flooding or landslides, could be severely impacted. The Mina corridor, then, would be an alternative for railway diversion to the south.

How would this impact effect Churchill County?

Would certain trains be left stranded in the county?

8. The Mina corridor passes in close proximity to the Lahontan Reservoir. Lahontan is the point of diversion for persons utilizing surface waters to irrigate lands in the area. Contamination of the water source would effect farming operations and potentially lead to contamination of ground water supplies.

The study must address whether or not the location of lines near water sources will be moved to eliminate any potential contamination hazard.

9. The Minor corridor is characterized by passage through areas of the state that receive as little as 10 inches annually, or less, in precipitation. When the rain falls, however, the desert is subject to flash-flooding on an unprecedented scale.

The study must include provisions for location of the rail free from damage by flooding.

The study must also include provisions for on-going maintenance of water related damage to the right-of-way.

V.

Impact Upon Natural Resources, Farming and Ranching Operations

Farming as an important economic endeavor and a way of life in Churchill County, Nevada.

Here we have not only a lot of NAS F-18s fighter planes passing overhead -we also have a lot of cows. We like both. The study must evaluate any impacts to be had upon exposure of radioactive materials to cattle and food sources.

2. Churchill County is an important source of geo-thermal energy. The impacts upon that natural resource must be explored.

VI.

Property Rights

1. Concern exists in this county as to the use of eminent domain to acquire lands to buffer the transportation corridor. The study should evaluate the potential financial impact to residents.

To what extent may eminent domain be used for property acquisitions?

What new easements must be procured?

What criteria will be implemented in their selection?

2. Existing property rights relating to the rail corridor must be defined.
3. The study should comprehend mitigation to existing or planned residential or commercial developments.

VII.

Extraordinary Concerns

1. Some 2000 archeological sites exist in Churchill County, Nevada. The study must assess how access will be preserved and sites protected from any injury.

Will access be limited?

What criteria will be implemented to ensure access?

2. The study must comprehend the potential for impacts to biological resources and endangered species.

November 16, 2006
Scoping comments Relating to the
Dept. Of Energy's Intent to Expand the
Scope of the Rail Corridor and Alignment
Environmental Impact
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XIII.

Conclusion

The Churchill County District Attorney's Office will not opine as to whether or not the Mina corridor should ultimately serve as the transportation route of radioactive materials to Yucca Mountain; that determination is to be made as a matter of law; and, this Office will assist in the enforcement of the law.

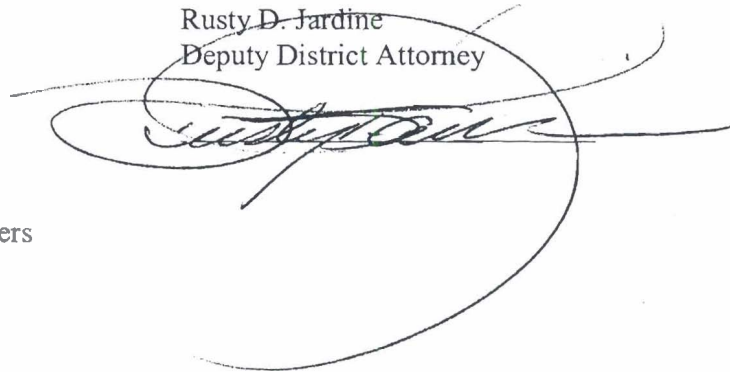
However, our foremost interest is this: To ensure that due and proper consideration be made by our law makers and policy givers, in connection with this study, so as to the protect our county's greatest resource: our people. We request that all due consideration be given the health, life, and safety of our citizens and friends.

DATED this 29th day of November, 2006.

Arthur E. Mallory
Churchill County District Attorney



Rusty D. Jardine
Deputy District Attorney



cc:
Board of County Commissioners
The Honorable Harry Reid
The Honorable John Ensign
The Honorable Kenny Guinn
The Honorable Ken Tedford
Sheriff Richard Ingram
Brad Goetsch, County Manager
Mert Mickelson, County Emergency Manager