

**Humboldt River Basin Water Authority
c/o Intertech Services Corporation
P.O. Box 2008
Carson City, Nevada 89702**

**Elko County
Eureka County
Humboldt County
Lander County
Pershing County**

November 16, 2007

U.S. Department of Energy
Office of Civilian Radioactive Waste Management
1551 Hillshire Drive, M/S 011
Las Vegas, Nevada 89134
ATTN: Dr. Jane Summerson

RE: *Comments to Draft Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada (DOE/EIS-0250F-S1D); Draft Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada – Nevada Rail Transportation Corridor (DOE/EIS-0250F-S2D); and Draft Environmental Impact Statement for a Rail Alignment for the Construction and Operation of a Railroad in Nevada to a Geologic Repository at Yucca Mountain, Nye County, Nevada (DOE/EIS-0369D)*

Dear Dr. Summerson:

On behalf of the five-county Humboldt River Basin Water Authority (HRBWA), I am providing these comments to the *Draft Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada (DOE/EIS-0250F-S1D); Draft Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada – Nevada Rail Transportation Corridor (DOE/EIS-0250F-S2D); and Draft Environmental Impact Statement for a Rail Alignment for the Construction and Operation of a Railroad in Nevada to a Geologic Repository at Yucca Mountain, Nye County, Nevada (DOE/EIS-0369D)*. HRBWA appreciates the opportunity to provide input on these documents and encourages the Department of Energy (DOE) to give serious consideration to the following comments when preparing its final environmental impact statements.

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start [At the outset please note that HRBWA is very disappointed that DOE elected to largely ignore most of the comments to the scope of the EISs provided by the Authority in letters to DOE dated November 17, 2006 and May 4, 2007. As a consequence, HRBWA believes DOE has produced EISs which are individually and/or collectively legally insufficient. In producing final versions of each EIS, DOE is encouraged to address the following comment and recommendation which

follow. The following comment presents the scoping comment provided by HRBWA by letters dated November 17, 2006 and May 4, 2007; an indication as to whether and if so, if in a sufficient manner, DOE addressed the HRBWA scoping comment; and any HRBWA recommendation for addressing the HRBWA comment in the Final EISs.

Comment Contained in May 4, 2007 HRBWA Letter to DOE: HRBWA believes that inclusion of the Mina rail corridor as an alternative carried forward for detailed analysis in the rail alignment EIS to be inconsistent with the National Environmental Policy Act (NEPA) and related Council on Environmental Quality (CEQ) and DOE regulations for implementing NEPA; is injurious to private and tribal, state and local government property owners and local governments located along the UPRR mainline across northern Nevada, the use of which would be required to access the Mina rail corridor, and along the Mina rail corridor itself; and may, in the event DOE does not now suspend further detailed analysis and planned presentation of such analysis of the Mina rail corridor in the forthcoming draft and final rail alignment EIS, result in otherwise avoidable uncertainty during the next 8-12 months regarding DOE's intentions for the Mina route.

NEPA requires that alternatives carried forward for detailed analysis within an EIS be "feasible". To be feasible, an alternative must be able to be selected and implemented by the lead agency (in this case DOE). By carrying the Mina rail corridor forward for detailed analysis in the rail alignment EIS, DOE is representing that the Mina rail corridor remains feasible and that DOE is prepared to select and implement said alternative. This is despite DOE official comments that given the Walker River Paiute Tribe have stated objection to transportation of nuclear waste across its reservation selection of the Mina rail corridor is academic. The Mina rail corridor is no longer a feasible alternative and should be presented as such in the EIS. Consistent with NEPA and related Council on Environmental Quality (CEQ) and DOE regulations for implementing NEPA, the appropriate presentation of the Mina rail corridor in the forth coming rail alignment EIS would be "as an alternative considered but eliminated from detailed analysis" (due to the Walker River Tribal Council's formal statement of opposition to nuclear waste being transported across the reservation).

Continued analysis and planned presentation by DOE of the Mina rail corridor as an alternative carried forward for detailed analysis in the rail alignment EIS casts a broad veil of uncertainty regarding the possibility that nuclear waste may yet be shipped along existing and newly constructed rail lines in northern Nevada. The potential (as conveyed by affording full and detailed NEPA coverage of the Mina route in the rail alignment EIS) for spent nuclear fuel and other high-level radioactive waste to yet be shipped along existing mainline and newly constructed rail lines in northern Nevada tied to use of the Mina rail corridor has likely already and will continue to result in perceived risk induced stigma along existing and potential rail routes. Said risk induced stigma may have already or may in the future have an impact upon real property values. While experts may disagree on stigma, no one can refute the fact that continued detailed analysis of the Mina rail route by DOE imposes upon state and local governments a requirement to exercise their fiduciary responsibility to ensure the welfare of their constituents by continuing to monitor and respond to DOE's Mina rail corridor related rail planning/analysis activities in northern Nevada. Private property owners too are forced to remain vigilant to DOE continued analysis of the Mina rail corridor. At a minimum, these requirements consume time and money (both of which are always in limited supply). Each of these consequences could be avoided were DOE to immediately announce that it no longer considered the Mine rail corridor feasible; that the Mina rail corridor was no longer being carried forward for detailed analysis in the rail alignment EIS; and that DOE intends to address the Mina rail corridor in the forthcoming rail alignment EIS as an alternative considered but eliminated from detailed analysis.

Despite HRBWA comments to the contrary, DOE elected to carry the Mina Route forward for detailed analysis in the EISs. On Page 1-8 of DOE/EIS-0250F-S2D, the text reads, "DOE had previously considered, but eliminated the Mina rail corridor from detailed study because ... the (Walker River Paiute) Tribe had informed DOE that it would not allow nuclear waste to be transported across the Reservation." In a May 2007 letter, the Walker River Paiute Tribal Council reaffirmed its past objection to the transportation of nuclear waste through the Reservation. Hence, the DOE new unequivocally a full 5 months prior to release of its draft EISs that the Mina rail route was not feasible. Accordingly, the Mina route should not have been carried forward for detailed analysis in the draft EISs.

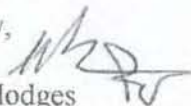
One can only assume that DOE has included the Mina route for detailed analysis with the hope that the Walker River Paiute Tribe would once again change its mind and allow the shipment of spent nuclear fuel through its reservation. If this is DOE's hope, it not articulated anywhere in the draft EISs. Inclusion by DOE of the Mina rail corridor as an alternative carried forward for detailed analysis in the rail alignment EIS has cast a broad veil of uncertainty regarding the possibility that nuclear waste may yet be shipped along existing and newly constructed rail lines in northern Nevada]

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end

2 [Recommendation: In its FEISs DOE should announce that it no longer considers the Mina rail corridor feasible; that the Mina rail corridor is no longer being carried forward for detailed analysis in the final rail corridor SEIS (DOE/EIS-0250F-S2D) and the final rail alignment EIS (DOE/EIS-0369D); and that DOE address the Mina rail corridor in the forthcoming final rail corridor SEIS (DOE/EIS-0250F-S2D) and the final rail alignment EIS (DOE/EIS-0369D) as an alternative considered but eliminated from detailed analysis]

I appreciate your consideration of the requests and comments provided in this letter. Should you have any questions regarding the comments offered herein, please contact Dr. Mike L. Baughman, the Authority's Executive Director (775) 883-2051.

Sincerely,


Bennie Hodges
Chairman

Cc: HRBWA Board Members and Alternates
Elko County Commission
Eureka County Commission
Lander County Commission
Humboldt County Commission
Pershing County Commission
Nevada Agency For Nuclear Projects