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December 4, 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

RE: Comments on Scope of Issues to be Analyzed in the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS

Dear Mr. Bishop:

On behalf of the Board of Lincoln County Commissioners, I am providing these comments to the scope of issues to be analyzed in the Supplemental Yucca Mountain Rail Corridor and Rail Alignment EIS. (the "EIS"). As noted in previous submissions by Lincoln County, Lincoln County is one of ten units of local government designated by the Secretary of Energy as "affected" by the proposed Yucca Mountain repository (including transportation).

Regarding the scope of issues to be analyzed in the EIS, this letter incorporates by reference those comments previously submitted by Lincoln County to the Department of Energy (DOE) in a letter dated May 3, 2004 and comments submitted to DOE by the City of Caliente in a letter dated May 20, 2004. In addition, Lincoln County requests that the scope of the EIS address in detail the following issues which the County considers essential for the EIS to be legally and scientifically defensible:

Description of Proposed Action and Alternatives

As set forth in the Council on Environmental Quality regulations implementing the National Environmental Policy Act ("NEPA"), a rigorous consideration of alternatives "is the heart of the environmental impact statement." 40 C.F.R. § 1502.14. Accordingly, each action alternative must be fully described in the EIS.

In describing each alternative, the EIS should indicate unique challenges, requirements, or costs, and if necessary, expand the categories used to evaluate transportation alternatives in the Repository FEIS. For example, according to the May 2006 letter from the Walker River Tribe, the Mina Route would require that DOE provide equipment and training for tribal emergency first responders or that DOE fulfill other similar obligations to cross the Walker River Indian Reservation. Such obligations should be described in detail and made a part of the alternative analyzed in the EIS.

Both the Caliente and Mina routes are located in remote, rugged, and arid locations. The EIS should provide a more informative description and characterization of each route than what has been provided to date. For example, for each proposed route, the EIS should provide information on expected grades, difficult terrain such as mountains, and expected engineering challenges, and should include a sufficient number of photographs of representative or unique areas of each route to adequately characterize the routes. The EIS must consider the comparative contribution to accident risk associated with grades and difficult terrain.

In order to fully disclose potential environmental impacts, the analysis of each route considered in the EIS must compare potential effects along the Union Pacific main lines necessitated by the selection of any given route. For example, the proposed Mina and Caliente corridors would connect to existing Union Pacific railroad tracks in different locations and on different Union Pacific lines, and would thus affect existing rail corridors and adjacent land uses differently. A Caliente corridor route would utilize the Union Pacific main line that runs from Salt Lake City, Utah through southern Nevada (including Las Vegas) to southern California, while the Mina Route would connect to different Union Pacific main line tracks located in northern Nevada. This northern rail line links central California with Salt Lake City, and passes through Reno, Nevada. Amtrak also provides passenger service on the route through northern Nevada.

A decision by DOE to utilize either the Caliente or Mina route absent the analysis of the effects of their companion segments of the Union Pacific mainline (based on actual or likely railroad operations) could result in unanticipated and/or unmitigated impacts of transporting spent nuclear fuel and other high-level radioactive waste to Yucca Mountain. The potential environmental impacts of transporting waste on lines shared by passenger service must also be analyzed.

In the Repository FEIS and other documents, the DOE has artificially divided the analysis of potential transportation impacts between “National Transportation Impacts” and “Nevada Transportation Impacts.” While this division makes some sense because the repository and any new rail line would be located within the state of Nevada, as discussed above, limiting the evaluation of each rail corridor to the state of Nevada may obscure potential differences between alternatives due to the different existing rail line that would be used. In order to fully disclose the differences between alternatives, the study area of each alternative should be expanded along the corresponding existing rail line, east to Utah and west to California, if appropriate.

The action alternatives must include a clearly defined “bounded” or “worst case” with regard to the maximum number of shipments of spent nuclear fuel and/or high-level radioactive waste which might be transported along the entire study route (including companion Union Pacific mainline segments) for both the Caliente and Mina alternatives.

NEPA requires a discussion of all reasonable alternatives, including a “no-action” alternative. The Notice of Intent does not describe what the no-action alternative is. The EIS must present a reasonable no-action alternative for comparing alternatives and for providing a reasonable baseline from which to measure the potential impacts of the proposed action. Given that DOE has decided to go forward with the Yucca Mountain Project and radioactive waste must be moved to the site, the No Action alternative should not simply be a decision by DOE to not select the Caliente or Mina rail route, rather, the No Action alternative analyzed in the EIS should be the use of legal weight trucks, the only other currently available alternative (or default alternative) open to DOE.

#### Alternatives Considered But Eliminated From Detailed Study

The EIS must discuss the reasons why any previously identified alternative routes for developing rail access across Nevada have been eliminated from detailed study. 40 C.F.R. § 1502.14(a). In its Record of Decision on Mode of Transportation and Nevada Rail Corridor for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, NV dated April 8, 2004 (69 Fed. Reg. 18,557), the DOE stated that it “does not consider the differences among the corridor alternatives to be sufficient to make any of them clearly environmentally preferable.” The County encourages DOE to update (utilizing current environmental, land use and socioeconomic data) and distribute in draft form its comparative analysis of all previously considered rail routes through Nevada to Yucca Mountain. This reevaluation should serve as the basis upon which DOE moves forward with detailed NEPA analysis of the Mina and/or Caliente routes and/or justifies the elimination from detailed analysis in the EIS the Mina, Caliente or any other route previously considered by DOE.

Additionally, the EIS must address the following:

1. The cumulative exposure risk and related acute and latent fatalities associated with incident-free and rail accident conditions for existing and future expected numbers of shipments of non-radiological hazardous constituents and planned shipments of spent nuclear fuel and other high-level radioactive waste along the entire study route (including, as discussed above, companion Union Pacific mainline segments) for the Caliente and Mina alternatives.
2. Radiological exposure risk and related acute and latent fatalities associated with incident-free and rail accident conditions to rail system workers, resident and visiting human populations, and rail passengers along the entire study route (including companion Union Pacific mainline segments) for each alternative considered.
3. Radiological exposure risk and related acute and latent mortality associated with incident-free and rail accident conditions to flora and fauna, including federally listed and other sensitive species along the entire study route (including companion Union Pacific mainline segments) for each alternative considered.
4. Socioeconomic consequences of incident-free and rail accident conditions including stigma-induced effects to community desirability as residential/business location choices; housing demand and prices; locally produced agricultural commodities; other products produced along the entire study route (including companion Union Pacific mainline segments) for each alternative considered.
5. Socioeconomic consequences of incident-free and rail accident conditions including stigma-induced effects to visitation and location desirability for various existing or potential state parks, wildlife management areas, river and stream corridors, lakes and other federal, state and local recreation sites proximate to and along the entire study route (including companion Union Pacific mainline segments) for each alternative considered.
6. Fiscal consequences of stigma-induced adverse impacts to ad valorem, sales and use tax revenues within each county and city along the entire study route (including companion Union Pacific mainline segments) for each alternative considered.
7. Incremental increase in accident hazard associated with shipments of nuclear waste or specialized requirements to provide emergency first response capabilities in communities along the entire study route (including companion Union Pacific mainline segments) for each alternative considered.

8. In the event that DOE, as a condition of use of a rail route (i.e. crossing the Walker River Indian Reservation) or pursuant to Section 180(c) of the Nuclear Waste Policy Act, as amended, is required to provide training and equipment for emergency first responders, the EIS must evaluate the effectiveness of these mitigation measures and the extent to which provision of these resources as a part of each action alternative will serve to reduce exposure hazard and consequence.
9. The EIS must include identification and analysis of credible accident scenarios involving derailment of nuclear waste shipping containers into any water body (e.g., the Humboldt River and its tributaries) to include:
  - a. Likely duration between time of derailment and recovery of shipping container from the water body;
  - b. Identification of any specialized equipment required to retrieve a nuclear waste shipping container from the water body; and
  - c. Analysis of timeframe required for specialized equipment required to retrieve a nuclear waste shipping container from the water body to arrive at derailment scene.
10. Specific details, including equipment, training, staffing, and costs, of emergency response requirements for all local jurisdictions to effectively respond to an incident/accident involving shipments of spent nuclear fuel or other high-level radioactive waste along the entire rail study route (including companion Union Pacific mainline segments) for each alternative considered.
11. Information on emergency response times along the entire rail study route (including companion Union Pacific mainline segments) for each alternative considered.
12. Jurisdictional coverage and coordination for emergency response between local, state, and federal emergency responders.
13. Identification of the number, approximate locations and environmental consequences of constructing and operating any rail sidings proposed for possible use by DOE or its contract carrier as safe parking areas for spent nuclear fuel and other high-level radioactive waste rail shipments along the entire rail study route (including companion Union Pacific mainline segments) for each alternative considered.
14. Improved (over that contained in the Repository FEIS) discussion of effects on wildlife (including endangered or threatened species such as the desert tortoise), including, for example, the effects of habitat fragmentation.
15. How any environmental impact may change (as a result of changes in environmental conditions, population growth/decline, economic growth/decline, etc.) along the entire rail study route (including companion Union Pacific mainline segments) for each alternative considered over the duration of the nuclear waste shipping campaign to Yucca Mountain.
16. A comparative analysis of all analyzed routes with regard to sensitive populations such as children.
17. A comparative analysis of all analyzed routes with regard to the presence near the rail corridor of difficult to evacuate facilities such as schools, correctional institutions, hospitals, assisted living centers and home-bound persons.
18. A comparative analysis of all action alternatives with regard to the promotion of environmental justice (Executive Order 12898) shall be included in the EIS. For example, the existing

companion segments of the Union Pacific rail line required to be used to access the Mina route and the Mina route itself crosses through or adjacent to several native American Indian communities.

In addition, pursuant to 40 CFR § 1508.5, this letter also serves to request that Lincoln County be granted cooperating agency status by the DOE for preparation of the EIS. As one of ten units of local government designated by the Secretary of Energy as "affected" by the proposed Yucca Mountain repository system (including transportation), Lincoln County has sponsored over 55 studies regarding, and can provide DOE with local information relating to, emergency management; emergency first response capabilities; emergency medical capabilities; transportation; and local socioeconomic conditions and trends. Consistent with 40 CFR § 1501.6, Lincoln County has special expertise regarding the aforementioned topics as they apply to the County. In addition, Lincoln County may have jurisdiction over permitting of various rail crossings of county-owned roads and other aspects of the construction and operation of a rail line through the County. Lincoln County is currently evaluating whether the proposed Caliente rail line would require issuance of Special Use Permit by the County.

— Your consideration of the requests and comments provided in this letter are appreciated.

Sincerely,

  
George T. Rowe  
Chairman