

**Eureka County
Yucca Mountain Information Office
P.O. Box 990
Eureka, Nevada 89316**

January 27, 2004

Robin Sweeney
Office of National Transportation
Office of Civilian Radioactive Waste Management
U.S. Department of Energy
1551 Hillshire Drive M/S 011
Las Vegas, NV 89134

Dear Ms. Sweeney:

RE: DOE Notice of the Preferred Nevada Rail Corridor

Eureka County is an affected unit of local government under Section 116 of the Nuclear Waste Policy Act as amended. As provided in Section 116, we are making comments and recommendations to the U.S. Department of Energy (DOE) regarding the above notice which appeared in the Federal Register on December 29, 2003.

The above referenced Notice announces that DOE has chosen the Caliente rail corridor as its preferred rail corridor. The Notice indicates that the Department continues to consider the Carlin route as its "secondary preference," and has eliminated from consideration the remaining three routes.

As the potential host for the origination of the Carlin rail route, Eureka County continues to be uninformed regarding the DOE decision-making process that led to this Preference Notice. The county is also striving to understand the meaning of "secondary preference" in relation to the National Environmental Policy Act (NEPA) process as described in the Notice of December 29, 2003.

The county has the following comments:

Lack of Programmatic EIS

The Preference Notice is a symptom of the larger problem of piecemeal rather than comprehensive and sequential transportation planning by DOE. The lack of a Programmatic EIS on all aspects of nuclear waste transportation to Yucca Mountain in the context of existing and projected nuclear shipments to and through Nevada as well as cumulative impacts to Nevada is evident in DOE's Preference Notice, which addresses route before mode.

Mode decision should precede route decision

It is surprising and confusing for DOE to indicate its preference for a Nevada rail route before it chooses the "mostly rail" mode. Again, a Programmatic EIS would guide DOE through a sequential and stepwise decision making process, and would ensure public involvement.

Lack of information for basis of comparison of routes

Eureka County stated in our Draft and Final EIS comments and Impact Assessment Report that the Department of Energy does not have enough route specific information to make an informed preference

choice regarding the rail route. While DOE disagrees, their own Draft and Final Environmental Impact Statements reflected a lack of on-the-ground information that should be considered in deciding among Nevada rail corridors.

The notice itself did not provide detailed information about the reasons for the selection beyond “remote location” and “the diminished likelihood of land use conflicts.” The lack of route specific engineering, terrain, and construction-related information in the route preference notice is indicative of the county’s ongoing concern that there is insufficient information in the Final EIS for DOE to make an informed decision regarding the suitability of a route for rail construction.

DOE indicated in the Notice that among other factors, “concerns raised by Nevadans” were taken into consideration. What kinds of concerns?

What does “secondary preference” mean ?

It is unclear what the designation of “secondary preference” means in terms of the upcoming transportation EIS process. The preference notice seems to indicate that DOE intends to study the preferred corridor only. We have a grave concern that at the end of that study, decision-makers will determine that the Caliente corridor is infeasible, and that DOE will select the Carlin rail route by default without detailed route-specific information for Carlin.

From the standpoint of using NEPA as a decision-making tool, DOE is proposing to conduct its study of alternatives within the Caliente rail corridor to determine the exact route within the corridor.

While we are somewhat reassured that the Carlin route is not the preferred corridor, we question whether the DOE’s proposed transportation EIS will be broad enough to meet its needs and to meet the intent of NEPA.

We believe the Notice of Preference informs us that the Carlin corridor is the back-up plan, and at any time the Carlin corridor could become the primary choice. While the Carlin route could be eliminated as a secondary preference at the time of the mode record of decision, we believe that the Carlin route could be revived in several years, if the Caliente route proves to be infeasible. As such, Eureka County continues to have the responsibility to plan and prepare for the potential impacts of such an eventuality.

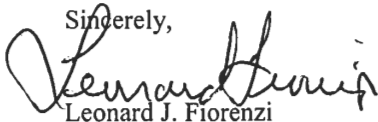
Conclusion

By initiating a transportation EIS that studies only the Nevada preferred rail corridor and does not consider the secondary rail route preference or rail/truck alternatives, DOE is structuring the process to eliminate informed decision-making.

DOE is making its corridor preference decision without adequate route-specific information. As a result, Eureka County is concerned that should the Caliente route prove infeasible, the Carlin route will be selected without adequate study.

Thank you for considering our views.

Sincerely,



Leonard J. Fiorenzi
Nuclear Waste Director
Eureka County Nuclear Waste Program

cc:Laurel Marshall
Abby Johnson