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Docket Management System; U.S. Department of Transportation
400 Seventh Street, SW
Nassif Building, Room PL-401
Washington, DC 20590-0001

Electronic Address <http://dms.dot.gov/>

**RE: US DOT, Pipeline and Hazardous Materials Safety Administration
Docket Number RSPA-04-18730**

Eureka County, Nevada, is an Affected Unit of Local Government under Section 116 of the Nuclear Waste Policy Act as amended. We are concerned with the impacts of transportation to the proposed repository at Yucca Mountain, Nevada. The Union Pacific railroad transverses the northern part of Eureka County, parallel to Interstate 80 and the winding Humboldt River. The U. S. Department of Energy (DOE) is now considering a rail route to Yucca Mountain that would bring all rail spent fuel shipments from the east through Eureka County.

We are encouraged that the Department of Transportation is proposing safety rules in advance of this unprecedented decades-long shipping campaign for high-level radioactive waste and spent nuclear fuel. We encourage the Department of Transportation and the Federal Railroad Administration to involve local government in planning as the responsible first responders who are most familiar with local conditions. We appreciate the opportunity to submit comments on the proposed rule.

Rail Transportation Route Analysis

The goal of this proposed rule is to use an analysis of possible routes to select the most safe and secure route for shipments. Although the goal of this

proposed rule is laudable, the way the rule is designed will not necessarily result in the most safe and secure route being used because of the following limitations:

1. Carriers are required to analyze routes only within their own system to determine the most safe and secure route. This limited analysis, while selecting the best route within their own system, fails to achieve the selection of the best route between the origin and destination for a proposed shipment. The best route within a carrier's system may very well result in "handing off" a shipment to the next carrier on a route which is not the best route within that carrier's system. The route analysis should be based on the premise that the most safe and secure route from a shipment's origin to its destination is used.

2. The alternative route analysis also allows carriers to consider the "economic effects" of using an alternative route. Inclusion of this factor without qualifiers could allow a carrier to route shipments on a less desirable route from a safety and security perspective because of the economic effects on a carrier. An example of this is the Union Pacific's proposal to route shipments of spent nuclear fuel through Kansas rather than Nebraska because of the economic effects that shipments would have on their coal traffic through Nebraska. If included in the route analysis, the analysis of "economic effects" should also be expanded to include an analysis of the "economic effect" of a route selection from origin to destination, not just the effects within a single carrier's system. Does this economic analysis include the economics of route selection for the shipper, or just the carrier?

3. The route analysis regulation fails to acknowledge the unique nature of future Department of Energy (DOE) shipments to the proposed repository at Yucca Mountain. Most importantly, DOE has initiated the process of selecting routes to the proposed repository through involvement with stakeholders, including State Regional Groups. DOE has also indicated an intention to involve and consult with local governments. It appears that the proposed rule would "preempt" this process, requiring carriers to use the route selected through the analysis process of the proposed rule rather than through the cooperative process envisioned by DOE. It must also be noted that the route analysis process proposed relies on a commodity flow study of the carriers' current shipments of the specified hazardous materials. Shipments of spent

nuclear fuel to date have been very limited. Therefore, a commodity flow study for spent nuclear fuel prior to the initiation of DOE's shipments to the proposed repository would be relatively meaningless. How would DOE's route identification process be impacted by this proposed rule? What voice would the State Regional Groups and local governments have in route selection for Yucca Mountain shipments under the proposed rule?

Storage, Delays in Transit, and Notification

This section recognizes that delays in transit may be a significant factor affecting the safety and security of a shipment. However, the proposed rule does not address the issue of delays in transit due to exchange with other carriers. The proposed rule requires carriers to consult with "offerers and consignees" to minimize the time that a shipment is stored incidental to movement. The goal of avoiding delays in transit could be greatly enhanced if carriers are required to consult with other carriers to develop a plan to avoid delays when hand-offs occur between carriers.

Appendix D, Rail Risk Analysis Factors

One of the factors to be considered by carriers in routing is the "Impact on rail network traffic and congestion." Currently, the Association of American Railroads' Circular OT-55-I limits the speed of shipments governed by the circular to 55 mph. This will result in shipments of spent nuclear fuel potentially creating a significant "impact on rail network traffic and congestion," leading a carrier to select a less desirable route to avoid this impact. It should be recognized, however, that for future shipments to the proposed repository at Yucca Mountain, DOE has stated that it will use dedicated trains, and that these dedicated trains will consist of cars specifically designed to AAR's higher standard for shipments of spent nuclear fuel. With electronic braking systems, improved dynamic stability, and electronic monitoring of the cars; it does not seem reasonable to require these dedicated trains for spent nuclear fuel shipments to travel at reduced speeds. It is particularly disturbing to suggest that if the trains are required to travel at reduced speeds, they would be routed on less desirable track in order to avoid "impact on rail network traffic and congestion."

Thank you for considering our comments. Please add us to a contact list for future notifications regarding this rule at the following email address: ecyucca@eureka.nv.org.

Sincerely,

Abigail C. Johnson
Nuclear Waste Advisor

cc: Ronald Damele, Public Works Director
Richard Moore, Transportation Impact Advisor