



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

March 18, 2004

Fritz R. Kahn, Esq.
1920 N Street, NW
8th Floor
Washington, DC 20036-1601

Re: STB Finance Docket 34382, Nevada Central Railroad – Construction and Operation – In Clark, Elko, Eureka, Lander, Nye and White Pine Counties, Nevada

Dear Mr. Kahn:

The Board’s Section of Environmental Analysis (SEA) is in receipt of your February 19, 2004 letter transmitting the U.S. Department of Energy’s (DOE) Final Environmental Impact Statement (FEIS) for the Yucca Mountain Repository. In your letter, you note that this FEIS has been “adopted” by your client, the Nevada Central Railroad (NCR), and the FEIS covers the “Bypass Line,” one of three new rail lines NCR proposes to construct and operate in Nevada, which were outlined in your original July 17, 2003 letter to SEA. You have provided the FEIS in response to SEA’s July 24, 2003 letter requesting additional information on all three proposed rail lines. SEA requested additional information before responding to your request to issue a *Federal Register* Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS), or Draft Scope of Study for the EIS for NCR’s three proposed rail lines.

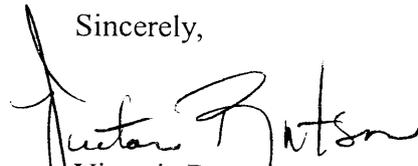
At this time, SEA is unable to begin drafting the NOI or Draft Scope of Study for the EIS. By forwarding DOE’s FEIS to SEA, it appears that the purpose of NCR’s three proposed rail lines is to move spent nuclear fuel and high-level radioactive waste to DOE’s Yucca Mountain Repository. However, DOE has not yet selected the preferred transportation mode (i.e., primarily rail, primarily trucks, or a rail-truck combination) for the movement of these materials to the Yucca Mountain Repository. Furthermore, if DOE selects rail or a rail-truck combination as the preferred transportation mode, DOE has not stated whether any new rail line would be operated as a common carrier line, subject to Board jurisdiction, or as a private carrier line, which would not be subject to Board jurisdiction.

Once the preferred transportation mode is selected, and if that mode includes rail, DOE would likely be the lead Federal agency for the preparation of an EIS under the National Environmental Policy Act. This EIS would address a railway alignment within a selected rail

line corridor. If DOE proposes to construct and operate a rail line with common carrier obligations, it may then be appropriate for the Board to join DOE's EIS effort as a cooperating agency.

Given these uncertainties, it would be premature for SEA to initiate an EIS for rail line construction and operation associated with the Yucca Mountain Repository. Once the preferred transportation mode, common versus private carriage, and lead versus cooperating Federal agency decision have been made, SEA would be happy to meet with you to discuss the Board's environmental review process and proposed rail line construction by NCR. If you have any questions, please contact me at 202-565-1545, or Dave Navecky of my staff at 202-565-1593.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is written in a cursive style with a large initial "V" and "R".

Victoria Rutson

Chief

Section of Environmental Analysis