



Department of Energy
Washington, DC 20585

April 29 2008

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Via E-filing

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W
Washington, DC 20423-0001

Re STB Finance Docket No. 35106
United States Department of Energy --
Rail Construction and Operation --
Caliente Rail Line in Lincoln, Nye, and
Esmeralda Counties, Nevada

Dear Secretary Quinlan

Enclosed for filing in the above referenced matter is the United States Department of Energy's "Request For Leave to File One Day Late," "Notice of Procedural Schedule for Application for a Certificate of Public Convenience and Necessity," "Affidavit of Allen Benson," and a "Certificate of Service" filed this 29th day of April 2008

Sincerely

Bradley L. Levine
Attorney, Office of General Counsel



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No 35106

UNITED STATES DEPARTMENT OF ENERGY
--RAIL CONSTRUCTION AND OPERATION--
CALIENTE RAIL LINE IN LINCOLN, NYE,
AND ESMEFRALDA COUNTIES, NEVADA

UNITED STATES DEPARTMENT OF ENERGY'S
REQUEST FOR LEAVE TO FILE ONE DAY LATE

In accordance with 49 C.F.R. § 1104.7(b), the United States Department of Energy (the "DOE") respectfully requests that the Surface Transportation Board (the "Board") grant this Request for Leave to File One Day Late in the matter of STB Finance Docket No 35106.

In its April 10, 2008 "Decision on Notice of Construction and Operation and Adoption of Procedural Schedule" (the "Decision"), served April 11, 2008, the Board directed DOE to publish newspaper notices announcing the new procedural schedule for FD 35106, and certify to the Board that it had done so. The Appendix to the Decision identified April 28, 2008 as the due date for DOE's certification.

DOE timely published the newspaper notices required by the Decision before April 28, 2008. Due to administrative inadvertence on its part, however, DOE did not file its certification by April 28, 2008. DOE is filing its certification April 29, 2008, one day late. There is no prejudice to any of parties of record in this proceeding, any future

parties, or the general public on account of this one-day delay. Accordingly, DOE respectfully requests that the Board grant this Request for Leave to File One Day Late DOE's certification pursuant to the Decision.



Bradley L. Levine
Attorney, Department of Energy
Office of General Counsel

April 29, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35106

UNITED STATES DEPARTMENT OF ENERGY
--RAIL CONSTRUCTION AND OPERATION--
CALIENTE RAIL LINE IN LINCOLN, NYE,
AND ESMEERALDA COUNTIES, NEVADA

NOTICE

APPLICANT. United States Department of Energy
AGENCY Surface Transportation Board
ACTION Notice of Procedural Schedule for Application for a Certificate of Public Convenience and Necessity

Summary:

On March 17, 2008, the United States Department of Energy (the "DOE") submitted an Application to the Surface Transportation Board (the "Board") for a Certificate of Public Convenience and Necessity ("Application") to construct and operate approximately 300 miles of new railroad line connecting existing rail line near Caliente, Nevada, to a proposed geologic repository at Yucca Mountain, Nye County, Nevada. The purpose of this rail line is to allow the DOE to transport spent nuclear fuel and high-level radioactive waste to a geologic repository, as well as to provide common carrier rail service to communities in Nevada situated along the rail line.

On April 10, 2008, the Board issued a "Notice of Construction and Operation Application and Adoption of Procedural Schedule," effective April 16, 2008, which extends the due dates for parties to file comments related to this matter. Pursuant to the schedule issued by the Board, the due date for notices of intent to participate as a party of record are due May 7, 2008, the due date for comments in support of or opposition to the Application are due July 15, 2008; and the due date for the DOE's reply is August 29, 2008. A copy of the notice and schedule is available at the Board's website:
<http://www.stb.gov>

Copies of the Application, as well as the "Notice of Filing an Application for a Certificate of Public Convenience and Necessity" that contains requirements for public participation with respect to the Application, are available at the DOE's website.
http://www.oerwm.doe.gov/transport/mode_decision.shtml

AFFIDAVIT OF ALLEN BENSON

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No 35106

UNITED STATES DEPARTMENT OF ENERGY

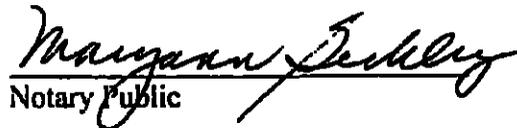
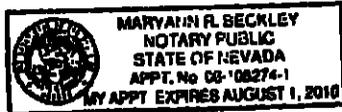
STATE OF NEVADA)
CLARK COUNTY)
)

I, Allen Benson, being duly sworn and deposed state, that I am the Director of the Office of External Affairs for the Department of Energy's Office of Civilian Radioactive Waste Management. I attest that I have written and detailed knowledge that the Department of Energy has acted in accordance with the Surface Transportation Board's April 10, 2008 Decision, by publishing a "Notice of Procedural Schedule for Application for a Certificate of Public Convenience and Necessity" that alerts parties of the new procedural schedule, in a newspaper of general circulation in Lincoln County, Nye County, and Esmeralda County, the counties in which the proposed Caliente Rail Line is located. The notice is also included with this affidavit.



Allen Benson

Subscribed and sworn to before me this 28th day of April, 2008.


Notary Public

My Commission expires as of August 1, 2010

CERTIFICATE OF SERVICE

I, Bradley L. Levine, hereby certify that I caused to be served a true and correct copy of the Department of Energy's "Request For Leave to File One Day Late," "Notice of Procedural Schedule for Application for a Certificate of Public Convenience and Necessity," and "Affidavit of Allen Benson" in the matter of STB Finance Docket No 35106 on the parties identified on the attached list by first-class mail or more expedient service this 29th day of April 2008



Bradley L. Levine
Attorney, Department of Energy
Office of General Counsel

April 29, 2008

Attorneys for the State of Nevada	Additional Parties
<p>Paul H. Lamboley Law Offices of Paul H. Lamboley Bank of America Plaza, Ste 645 50 W Liberty Street Reno, NV 89501 Email: phlamboley@aol.com</p>	<p>Nevada Central Railroad C/O: NCR-Nevada State Resident Agent Robert Alan Kemp 4959 Talbot Lane, Unit #69 Reno, NV 89509 Telephone: (775) 827-3258</p>
<p>Joseph R Egan Martin G Malsch Charles J Fitzpatrick EGAN FITZPATRICK & MALSCH 12500 San Pedro Avenue, Suite 555 San Antonio, TX 78216 Email mmalsch@nuclearlawyer.com</p>	<p>Joni Eastley Chair, Nye County Board of County Commissioners Nye County Board of County Commissioners Tonopah Office 101 Radar Road Tonopah, NV 89049 Email: castle@lnett.com</p>
<p>Merril Hirsh William H Briggs ROSS DIXON & BELL 2001 K. Street, N.W., 4th Floor Washington, DC 20006-1040 Email: mhirsh@rdblaw.com</p>	<p>Honorable Shelley Berkley United States House of Representatives 405 Cannon House Office Building Washington, DC 20515 Phone: (202) 225-5965</p>
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	<p>David Wright Nuclear Waste Strategy Coalition P O. Box 5233 Pinhurst, NC 28374 Email themvsc@nc-rr.com</p>
	<p>Jan Cole Caliente Hot Springs Resort LLC 6772 Running Colors Avenue Las Vegas, NV 89131 (702) 770-9290</p>