

Responses to Written Questions Submitted by Honorable Dan Sullivan to Patrick Fuchs

*Question.* Alaska is one of about 5 states where all freight rail service is provided by regional and shortline railroads, also known as Class 2 and Class 3 railroads. Many of these small railroads are in rural areas and were created from lines that would have been abandoned by the large Class 1 railroads, although in Alaska our railroad was previously owned by the federal government.

Regional and shortline railroads face the same types of challenges as other small businesses, because they are small businesses. Could you please give me your perspective on these small railroads and how you see the role of the STB in helping to preserve rail service in rural areas by these small railroads?

*Response.* I greatly appreciate the importance of small railroads to our nation's rail transportation system. These railroads provide critical rail service to rural and other areas and often serve as crucial first and last mile connections throughout the nation.

The statutory provisions governing the Surface Transportation Board recognize the importance of continued rail service to rural areas. The abandonment provisions of section 10903 of title 49, United States Code, require that, in reviewing rail carrier requests for abandonment, the Board consider the impacts on rural and community development. The Offer of Financial Assistance provisions of section 10904, which give interested financially responsible persons the opportunity to purchase or subsidize a line subject to abandonment, provide a role for the Board in potentially facilitating continued service. If confirmed, I would approach the position with an understanding of the Board's statutory authorities and an appreciation for the importance of small railroads and rail service to rural areas.

Responses to Written Questions Submitted by Honorable Dean Heller to Patrick Fuchs

*Question 1.* As you both know, the Department of Energy has an application before the Surface Transportation Board for a certificate of public convenience and necessity to build the Caliente railroad to Yucca Mountain. Given Congress' repeated refusal to fund the Yucca Mountain project, I do not believe the Surface Transportation Board should act on this application knowing that the project is not funded and that it is not going to be funded.

Mr. Fuchs, during questioning, you indicated that you agreed with me, and you said that your understanding was that "it's not the Board's practice to get out in front of a broader issue where it's not the lead agency."

Mr. Fuchs, if confirmed, will you commit to continuing the Surface Transportation Board's practice of not getting out in front of other agencies when it is not the lead agency?

Response. Recognizing that the construction and operation application for the Caliente Line is pending before the Board, and any decision would be based on the agency record, as a general matter I can say that the Board has a long history of cooperating with other agencies in cases involving environmental and safety issues. If confirmed, I intend to uphold the Board's practice of not getting ahead of an agency that is the lead in a particular matter.

*Question 2.* Under the Nuclear Waste Policy Act, the federal government is looking at shipping 9,495 rail casks in 2,800 trains and 2,650 trucks hauling one cask each to Yucca Mountain over 50 years. These shipments would use 22,000 miles of railways and 7,000 miles of highways and cross over 44 states. Under previous questioning from me at this Committee, Federal Railroad Administrator Ronald Batory and Pipeline and Hazardous Materials Safety Administrator Howard Elliott confirmed that a transportation accident with an ensuing radiological release was possible.

Mr. Fuchs, given the significant number of proposed shipments, the sheer distance to be traveled, and the 50-year duration of these shipments, do you agree with Mr. Batory and Mr. Elliott that there is a real risk of at least one transportation accident with an ensuing radiological release occurring?

Response. Understanding the construction and operation application for the Caliente Line is pending before the Board, and any decision would be based on the agency record, as a general matter I note that the Federal Railroad Administration and Pipeline and Hazardous Materials Safety Administration have primary responsibility for, and are the principal Federal government experts on, the safety of spent nuclear fuel transportation by rail. I respect their subject matter expertise, and I have no reason to disagree with their judgement on the possibility of a release.