

RESOLUTION NO. R2003-17

A RESOLUTION REGARDING THE GOVERNMENT'S DELAY IN REGULATING REMOTE CONTROL LOCOMOTIVES, DIRECTED TO UNITED STATES SENATORS ORRIN HATCH AND ROBERT F. BENNETT; UNITED STATES REPRESENTATIVE JIM MATHESON; UTAH STATE GOVERNOR MICHAEL LEAVITT; UNITED STATES DEPARTMENT OF TRANSPORTATION SECRETARY NORMAN Y. MINETA; AND FEDERAL RAILROAD ADMINISTRATION ADMINISTRATOR ALLAN RUTTER.

WHEREAS, the City of South Salt Lake, Utah, is home to the Union Pacific Railroad Company's Roper Yard, one of the largest railroad yards in the State of Utah; and

WHEREAS, a high volume of toxic materials pass through Roper Yard each day; and

WHEREAS, the residents of the City of South Salt Lake, Utah are directly and immediately at risk from a spill of toxic materials caused by a railroad accident at Roper Yard; and

WHEREAS, the Fire Department of the City of South Salt Lake, Utah has the primary responsibility for emergency response to a spill of toxic materials from a railroad accident at Roper Yard; and

WHEREAS, the City of South Salt Lake Mayor and City Council have been made aware of the intent of the Union Pacific Railroad to begin operation of remote control of railroad locomotives at Roper Yard; and

WHEREAS, the City of South Salt Lake Mayor and City Council are informed and believe that, around the nation, there have been a number of derailments involving the use of remote control locomotive technology; and

WHEREAS, the United States Congress and United States Department of Transportation have so occupied the field of railroad safety regulation that the local communities, directly and immediately impacted by railroad safety failures, are almost entirely dependent upon the federal government to assure the safety of our lives, homes and communities and to protect against foolish waste of scarce local emergency resources caused by unsafe railroad practices; and

WHEREAS, the City of South Salt Lake Mayor and City Council are informed and believe that, as of the time of the adoption of this resolution, the United States Department of Transportation and its Federal Railroad Administration have failed to promulgate prudent safety rules for remote control locomotive operation, as was determined as a matter of law by the United States Court of Appeals for the Seventh Circuit in *Burlington Northern and Santa Fe Railway Company, et. al. v. James E. Doyle, et. al.*, 186 F3d 790 (7th Cir. 1999); and

WHEREAS, in its published statements, the Federal Railroad Administration has openly

and admittedly taken the *laissez-faire* approach of allowing the practice of using remote control locomotives to develop first, waiting to promulgate safety standards second; and

WHEREAS, the City of South Salt Lake Mayor and City Council find this approach from the federal authority, upon which our community's protection from negligent railroad practices so entirely depends, indifferent to the dangers faced daily by our citizens; and

WHEREAS, the inaction for years by our federal government officials to properly police this new technology, having first removed our ability to protect ourselves, gives us doubt as to their awareness of, or concern for, local communities like ours that stand to suffer immediately and directly from unsafe railroad practices; and

WHEREAS, the United States Court of Appeals for the Seventh Circuit has ruled that, pursuant to 49 USCS § 20106, in the face of federal inaction on the regulation of remote control locomotives, a state does have regulatory authority over this practice, *id.*; and


WHEREAS, a regulation by the State of Wisconsin effectively prohibiting the use of remote control locomotives has been validated, *id.*,

NOW, THEREFORE, BE IT RESOLVED by the City of South Salt Lake City Council as follows:

1. That our United States Senators Orrin Hatch and Robert F. Bennett and our United States Representative Jim Matheson are implored to exercise their influence with the United States Department of Transportation and Federal Railroad Administration to cease procrastination on the long overdue regulation of this new technology; and
2. That our United States Department of Transportation Secretary, Norman Y. Mineta is encouraged to require the Federal Railroad Administration to cease at once its delay on this important safety issue; and
3. That our Federal Railroad Administration Administrator Allan Rutter is requested to carry out his responsibility to protect our community by demanding immediate promulgation of overdue safety regulations; and
4. That in absence of federal leadership responsive to local safety concerns, the Honorable Michael Leavitt, Governor of the State of Utah, follow the lead of the State of Wisconsin by urging state legislation prohibiting the use of remote control locomotives until such time as our federal government fulfils its duty to issue the rules needed to protect our local communities from this potentially dangerous railroad practice.

APPROVED AND ADOPTED by the City of South Salt Lake City Council, South Salt Lake, Utah, on this 15th day of August, 2003.

BY THE CITY COUNCIL:

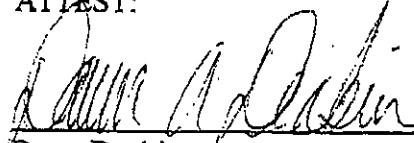


Stacey Liddiard
Council Chair

City Council Vote as Recorded:

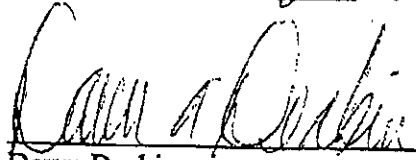
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| Anderson | <u>AYE</u> |
| Gray | <u>AYE</u> |
| Liddiard | <u>AYE</u> |
| Marshall | <u>AYE</u> |
| Moffat | <u>AYE</u> |
| Siwik | <u>AYE</u> |
| Watts | <u>AYE</u> |

ATTEST:




Dawn Deakin
City Recorder

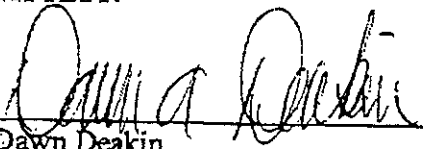
Transmitted to the Office of the Mayor of South Salt Lake on this 28th day of August, 2003.


Dawn Deakin
City Recorder

MAYOR'S ACTION: Approved

Dated this 3 day of Sept., 2003.


Wes Losser
Mayor

ATTEST:

Dawn Deakin
City Recorder