

SOUTHWEST RESEARCH AND INFORMATION CENTER

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September 22, 2020

Holtec-CISFEIS@nrc.gov
Docket ID NRC-2018-0052

via email

Southwest Research and Information Center (SRIC) provides the following comments on the Draft Environmental Impact Statement (DEIS), (NUREG-2237), pursuant to the Nuclear Regulatory Commission (NRC or Commission) Federal Register (FR) notices of March 20 (85 FR 16510-11), April 27, 2020 (85 FR 23382-83), and June 24, 2020 (85 FR 37964-65).

SRIC provided written scoping comments on July 30, 2018 and also provided oral comments at the April 25, 2018 webinar and the May 3, 2018 Carlsbad scoping meeting. Those comments are incorporated by reference and must be considered by NRC as comments on the DEIS, including those that were not included in the scoping summary (ML19121A296). SRIC appreciates that the NRC extended the originally noticed DEIS comment period to September 22, 2020, but notes with great disappointment that NRC did not further extend the comment period and did not fulfill its stated promises to have five in-person public meetings in New Mexico and instead held webinars. NRC's refusal to keep its promises and its insistence to rush the DEIS to meet Holtec's June 10, 2020 request to not delay (ML20162A262), clearly demonstrate that the NRC is not sincerely interested in public comment and is committed to issuing Holtec's license. Because of the pro forma nature and technical problems of those webinars that did not provide an adequate opportunity for public comment, SRIC did not participate.

1. The DEIS is clearly legally and technically inadequate.

A. The DEIS does not correctly state the purpose and need, nor does it discuss that the preferred alternative is contrary to existing federal law.

SRIC's scoping comments pointed out that the Holtec ER does not correctly state the purpose and need, as required by NEPA regulations. 40 CFR § 1502.13. at 3.

The DEIS does not include the Holtec ER purpose and need and instead states:

The purpose of the proposed Holtec CISF is to provide an option for storing SNF from nuclear power reactors before a permanent repository is available. SNF would be received from operating, decommissioning, and decommissioned reactor facilities. at xxii and 1-2.

The NRC purpose and need is not adequately and correctly stated. There already exist many options for storing SNF at reactor sites, and those options have been licensed by the NRC. The

NRC has determined that such storage options are adequate for 120 years. 79 Fed. Reg. 56238, 56252, (September 19, 2014). Thus, the Holtec site does not meet the need for storage, which is being met by existing storage that has been determined by the NRC to be adequate. Thus, there is no demonstrated need for the Holtec site.

The purpose and need that NRC apparently intends would be:

The purpose of the proposed Holtec CISF is to provide a non-governmental owned, operated, and funded option for away-from-reactor storage of SNF from nuclear power reactors before a permanent repository is available.

In incorrectly stating the purpose and need, the DEIS also attempts to include Holtec's illegal preferred alternative and to exclude reasonable alternatives. Case law clearly establishes that practice is not allowed.

[Agencies] may not define the project's objectives in terms so "unreasonably narrow," that only one alternative would accomplish the goals of the project. *Nat'l Parks & Conservation Ass'n v. Bureau of Land Mgmt.*, 606 F.3d 1058, 1070 (9th Cir.2010). The EIS would then become merely a foreordained formality. *Id.* *Honolulutraffic.com v. Fed. Transit Admin.*, 742 F.3d 1222, 1230 (9th Cir. 2014).

Holtec's preferred alternative is for the federal government to take title to the waste and pay for transportation, storage, emergency response and other costs. Holtec, NRC, and the public all know that alternative is contrary to existing law. SRIC pointed out this problem in its scoping comments (at 3-4). The scoping summary does not include that comment, nor does the DEIS mention or address the legal problem.

For NRC to properly comply with NEPA, including involving the public and informing decisionmakers as required, it should not proceed with issuing an FEIS. Instead, it should revise the purpose and need and preferred alternative and provide for additional public comment.

B. The DEIS does not discuss all reasonable alternatives, as required by NEPA. The discussion of alternatives is the legally required heart of any EIS. 40 CFR § 1502.14. The legally adequate EIS must "[r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." 40 CFR § 1502.14(a).

The NRC regulations provide:

Alternatives to the proposed action. The discussion of alternatives shall be sufficiently complete to aid the Commission in developing and exploring, pursuant to section 102(2)(E) of NEPA, 'appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.' To the extent practicable, the environmental impacts of the proposal and the alternatives should be presented in comparative form. 10 CFR § 51.45(a)(3).

Contrary to those requirements, the DEIS considers only two alternatives – licensing Holtec or “No action.” “Under the No-Action alternative, the NRC would not approve the Holtec license application for the proposed CISF. The No-Action alternative would result in Holtec not constructing or operating the proposed CISF.” at xxiii and 2-20. Those two alternatives are the ones in the Holtec ER.

(1) SRIC’s scoping comments pointed out that Private Fuel Storage (PFS) was licensed by the NRC in 2006, a comment that was noted in the scoping summary. at B-2. But the scoping summary did not include that the comment also stated that PFS must be considered as a reasonable alternative (at 2, see also at 5). The DEIS does not include PFS as a reasonable alternative, nor is any reason provided for not including that site in the Section 2 Alternatives. Clearly, PFS meets the NRC stated purpose and need and the apparently intended purpose and need. So PFS must be considered and analyzed in the DEIS and FEIS. The DEIS is clearly legally inadequate in not considering that alternative. SRIC requests that a revised DEIS that includes that alternative be issued for public comment before proceeding to an FEIS.

(2) Another reasonable alternative that must be considered is the WCS/ISP site, which SRIC also pointed out in its scoping comments. at 5. That comment was not included in the scoping summary. The DEIS does state that there is a pending license application for a facility “[s]imilar to the proposed Holtec CISF evaluated in this EIS” (at 5-6). But WCS/ISP is not included as a reasonable alternative in the Holtec DEIS. That omission is contrary to the requirement to analyze all reasonable alternatives. The omission is even more incredible given that NRC’s DEIS for that site preliminarily recommends that site be licensed (NUREG-2239 at iii, xxxviii-xxxix, and 2-29), the same preliminary recommendation as in the Holtec DEIS. at iii, xlvii, and 2-29. Clearly, WCS/ISP meets the stated purpose and need or the intended purpose and need. So the facility must be considered and analyzed in the DEIS and FEIS. The DEIS is clearly legally deficient in not considering that alternative. SRIC requests that a revised DEIS that includes that alternative be issued for public comment before proceeding to an FEIS.

(3) Hardened On-site Storage (HOSS). SRIC (at 6) and many other commenters supported consideration of HOSS as a reasonable alternative. The DEIS states that the alternative was eliminated from detailed consideration because:

HOSS does not meet the purpose and need for the proposed action (provide away-from-reactor SNF storage capacity that would allow SNF to be transferred from existing reactor sites and stored for several decades before a permanent repository is available). at 2-21.

As pointed out above, HOSS does meet the purpose and need statement in the DEIS. The elimination of HOSS because of the “revised” purpose and need statement reinforces the inadequacy of the DEIS and the purpose and need statement discussed in the above comments in 1.A.

The fact remains that the DEIS is grossly legally inadequate by excluding reasonable alternatives and by not providing the required comparative analysis of those alternatives. The DEIS does not provide an adequately basis for a legally adequate FEIS.

C. The period of environmental analysis must be at least 120 years.

The proposed action is “for a license period of 40 years.” at iii, 1-1, 2-1, 2-2, and other places. “Therefore, the period analyzed in this EIS is the licensing period of 40 years.” at 2-2. There is no legal or technical basis for that time period. First, Holtec has specifically stated that it intends to operate the facility for 120 years in all seven revisions of its Environmental Report (ER). The DEIS recognizes that intent only once. at 2-2. Second, neither the ER, nor the DEIS provide any basis to demonstrate that the proposed amounts of SNF could be brought to the Holtec site and all be removed from the site in 40 years. Third, both Holtec and the NRC know that Yucca Mountain will not be accepting all of the SNF that would be at the Holtec site within 40 years. Nonetheless, the DEIS states that it assumes that the SNF would go to Yucca Mountain. at 3-12. But the DEIS does not state that all of the SNF would be removed to Yucca Mountain within 40 years.

The environmental effects of the Holtec site would be different and more significant for a period of 120 years than for 40 years. The impacts on public and worker health would be different and more significant. The impacts of climate change would be different and more significant. The impacts on air, soil, and water would be different and more significant. The irretrievable commitment of resources and cumulative impacts would be different and more significant, as would also be the case for other effects. Thus, the DEIS is technically and legally deficient in not analyzing any of such effects for at least 120 years. In fact, a legally and technically adequate EIS must analyze the environmental effects for at least 120 years, as anything less would also be illegal segmentation under NEPA.

Furthermore, as SRIC stated in its scoping comments, the legally and technically adequate analysis must be for even longer than 120 years. at 6. Once again, the scoping summary does not apparently include that comment, nor does the DEIS include the required analysis.

The FEIS also must include that the legal capacity limit of Yucca Mountain – 70,000 metric tons – is significantly less than the total capacity of at least 100,000 metric tons proposed by Holtec, so not all of the SNF proposed for Holtec could go to that repository even if it did operate. Clearly, if all of the proposed SNF would come to Holtec, a significant amount would have to stay in perpetuity, because there are not repositories to accept all the SNF.

2. The DEIS is inadequate for BLM’s purpose and need.

The DEIS states:

Holtec proposes building a rail spur across BLM-managed lands to connect existing rail lines to the proposed CISF site. The BLM’s Federal decision is to either approve Holtec’s Plan of Operations (pending submission), subject to mitigation included in the Holtec license application and this EIS, or deny approval of the Plan of Operations if it is found that Holtec’s proposal would result in unnecessary or undue degradation of the public lands. at 1-2.

The BLM purpose and need is to provide direction for managing public lands the BLM administered in accordance with its mandate under the Federal Land Policy and Management Act of 1976. The proposed rail spur is needed to efficiently transfer SNF from existing rail lines to the proposed CISF. at 1-3.

The BLM should deny approval for the Holtec right-of-way (ROW). As discussed in 1.C. above, the environmental impact analysis is inadequate because the Holtec site could operate for 120 years or more, which is much longer than the NRC 40-year license. Thus, the timeframe for an approved ROW would effectively not coincide with any license governing the site operations.

The BLM purpose and need is also incorrect and inadequate, since as stated, the Holtec site would operate forever, because there is no expressed provision for the rail spur to transfer SNF from the proposed CISF to a permanent repository.

An adequate DEIS and FEIS for BLM's purposes must also provide a much more detailed and accurate assessment of the environmental impacts on other multiple uses authorized by FLPMA, including mineral extraction, grazing, hunting, and other recreational purposes than that provided by the DEIS. In particular, concerns of oil and gas operations and recreational users that are not adequately discussed or considered by the NRC must be considered by BLM. If such uses and concerns are adequately considered, BLM must conclude that the ROW would be contrary to the objectives of FLPMA and 43 CFR 2801.2, and deny the ROW, if the application is submitted.

In addition, BLM is required to coordinate with nearby activities, including those subject to the authority of the New Mexico State Land Office. The DEIS only briefly mentions of that Office (at 3-6, 4-4, 5-18, and 5-24), which in no way is sufficient for BLM's purposes. That is especially so when the State Land Commissioner has stated (ML19183A429):

Those [Holtec] submissions [to the NRC] contain statements that have the potential, intended or not, to mislead federal regulators and the public alike, and require immediate correction. at 2.

Given these safety concerns, and lack of consideration for the State Land Office's fiduciary responsibilities, I do not believe that Holtec's proposed nuclear storage project is in the best interests of the State Land Office, its lessees, and its beneficiaries. at 4.

That letter is not referenced, nor are its contents included in the DEIS. That constitutes another gross legal and technical inadequacy of the document for BLM's purposes.

Clearly, for BLM's purposes, the No Action alternative best meets that agency's statutory and regulatory interests, as established by FLPMA.

Additionally, the DEIS also does not discuss that BLM provided land withdrawals for the Waste Isolation Pilot Plant (WIPP), including for temporary nuclear waste storage. But the Federal District Court found that the Secretary of Interior can make only temporary withdrawals. *State of New Mexico v. Watkins*, 783 F.Supp. 628, 632 (D.D.C. 1991). The same court also found that the Secretary of Interior exceeded his authority in extending a land withdrawal to allow for transportation and storage of nuclear waste to WIPP. *State of New Mexico Ex. Rel. Udall*, 783 F. Supp. 633, 639 (D.D.C. 1991). On appeal, the D.C.Circuit affirmed the District Court's FLPMA holding and the permanent injunction against the Public Land Order. *State of New Mexico v. Watkins*, 969 F.2d 1122, 1138 (D.C. Cir. 1992).

As a party to that WIPP litigation, SRIC is well aware of the differences between the WIPP land withdrawal under 43 U.S.C. § 1714 that required congressional action and the proposed ROW under 43 U.S.C. § 1761 that may be approved for specified uses. However, in an adequate DEIS and FEIS BLM must consider its past history of not fully complying with FLPMA regarding nuclear waste facilities in the area. In addition, the close proximity of the WIPP land withdrawal and its permanent nature, BLM must consider whether Holtec would be a permanent nuclear waste facility, as part of its consideration of the adequacy of the Holtec Plan of Operations, if it is submitted. BLM must also consider the cumulative impacts of the nation's only two permanent nuclear waste facilities being less than 20 miles apart. That issue is not discussed in the DEIS.

Further, because of the inadequate public process used in receiving public comments on the DEIS, BLM must engage in additional public comment and NEPA compliance, if Holtec submits a Plan of Operations, before approval of any ROW.

3. There is not consent from New Mexico, and the DEIS ignores that fact and the local expertise. The NRC is well aware that New Mexicans do not consent to the Holtec SNF proposal. That fact was demonstrated in the overwhelming number of scoping comments expressing that opposition. Scoping Summary at B-66. But the scoping summary explains that NRC licensing is not a consent-based process and so consent and non-consent are outside the scope of the DEIS. at B-7 to B-8. The DEIS does not even include the word "consent."

While the NRC ignores non-consent, the agency cannot legally ignore the local expertise, which the NRC does not possess. For example, Governor Michelle Lujan Grisham stated:

I write to express my opposition to the proposed interim storage of high-level radioactive waste in the state of New Mexico. The interim storage of high-level radioactive waste poses significant and unacceptable risks to New Mexicans, our environment and our economy. Furthermore, the absence of a permanent high-level radioactive waste repository creates even higher levels of risk and uncertainty around any proposed interim storage site. at 1.

Establishing an interim storage facility in this region would be economic malpractice. Any disruption of agricultural or oil and gas activities as a result of a perceived or actual incident would be catastrophic to New Mexico, and any steps toward siting such a project could cause a decrease in investment in two of our state's biggest industries. For those reasons, the New Mexico Cattle Growers' Association, the New Mexico Farm and Livestock Bureau and the Permian Basin Petroleum Association have all sent me letter opposing high-level waste storage in southeastern New Mexico. at 2. Full letter attached.

While the governor and those local organizations are the experts in evaluating the socio-economic impacts of the Holtec CISF, the DEIS does not acknowledge their information and opposition. Instead, the DEIS states that the operational impacts are SMALL, and the local economy would experience a "beneficial impact." xli, 5-40 to 5-42. Such disregard for local expertise is not credible, especially when none of the preparers listed in Section 10 have comparable expertise.

The public does not and should not consider that the NRC has adequate expertise to provide reasoned analysis of the socio-economic impacts. The DEIS is grossly legally and technically inadequate regarding its analysis of socio-economic impacts. Further, under *Chevron* legal deference standards (*Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 468 U.S. 837 (1984)), no deference should be given to NRC's socio-economic impact analysis because the agency does not have the requisite expertise. Further, the agency is demonstrably ignoring the expert analysis that has determined that allowing the Holtec site and the shipment and storage of SNF in New Mexico would be economic malpractice.

In its July 24, 2019 Memorandum of Understanding (MOU) with the New Mexico Environment Department (NMED)(ML19206A094), the NRC "recognizes that NMED has special expertise." at 1. The expertise is expressly "regarding impacts due to its knowledge of the region and the state environmental permitting requirements. NMED's staff areas of expertise include surface water and groundwater." Section IV.B.1.

The DEIS does not show that NRC has fulfilled its commitments in MOU Section IV.A.2 to "utilize the comments, recommendations, data, and/or analyses provide by NMED in the CISF EIS process, giving particular weight to those topics which NMED is acknowledged to possess special expertise." Throughout the remainder of the EIS process, NRC must demonstrate that has fully used the comments and recommendations of NMED.

Additional local expertise and authority are in the State Land Office, as noted in #2 above. Regarding mineral extraction and oil and gas resources at the Holtec site, that Office is the authority, even though the DEIS does not so recognize.

As a related matter, the DEIS does not analyze the impacts of oil and gas drilling within the bounds of, or adjacent to, the Holtec site. Neither Holtec nor NRC could prohibit such drilling. For example, what are the environmental impacts of active oil and gas operations at or near the Holtec site on SNF storage? What are the impacts on the Holtec site of accidents or releases from oil and gas operations on or near the site? What are the impacts on oil and gas operations and leases from actual or perceived releases of radioactivity from the Holtec site? All such impacts disqualify the site as there would be major effects, or even catastrophic ones, as Governor Lujan Grisham states.

The DEIS is inadequate, and does not provide the basis for an adequate FEIS, because of the NRC lack of expertise and its failure to defer to the local expertise, especially regarding socio-economic impacts, surface water and groundwater, and mineral resources and extraction.

4. The DEIS is legally and technical inadequate regarding environmental justice issues.

The public does not and should not consider that the NRC has adequate expertise regarding environmental justice issues in New Mexico. As the scoping summary acknowledges, "Many commenters expressed that the proposed project is a form of environmental injustice." at B-42.

Nonetheless, the DEIS largely ignores the many scoping comments regarding environmental injustice, not only related to transportation, but also related to within the radius of influence (ROI). For example, the DEIS mentions Traditional Cultural Properties (TCP). at 3-74. However, the DEIS does not mention the Mt. Taylor TCP, nor analyze the impacts on that TCP because of the

railroad transportation would affect the area. While the DEIS does not state any rationale for excluding analysis of impacts on the Mt. Taylor TCP, the scoping summary states that environmental justice issues regarding transportation are outside the scope of the DEIS and further states: “potential impacts on historic and cultural resources would be minimized by use of existing rail routes.” at B-44. On the contrary, environmental injustice is demonstrated by the fact that rail (and highway) routes are often sited to impact environmental justice communities and to protect white and affluent communities from the negative effects of such transportation routes.

Regarding the ROI, the DEIS states:

After reviewing the information presented in the license application and associated documentation, considering the information presented throughout this EIS, and considering any special pathways through which environmental justice populations could be more affected than other population groups, the NRC staff did not identify any high and adverse human health or environmental impacts and conclude that no disproportionately high and adverse impacts on any environmental justice populations would exist. at 4-83.

Thus, the DEIS does not mention the public oral and written scoping comments regarding environmental justice in the ROI, thereby implicitly admitting that it did not actually consider and respond to those comments.

Also regarding the ROI, SRIC notes with concern that the DEIS is disregarding the apparently unresolved Hopi concerns about two cultural resources sites – LA187010 and LA 89676. ML19275F380. The DEIS states that because of the field visit of February 4, 2020 (ML20055E102), “the consensus among all parties in attendance at the visit was that Site LA 187010 should not be recommended eligible for listing on the NRHP.” at 3-73. However, the DEIS is not complete and accurate because it does not state that no Hopi tribal representative was present on the site visit. Thus, the DEIS does not document that there is consensus among all affected tribes that the site should not be recommended eligible for NRHP listing. Further, Site LA 89676 is not being considered because of rail spur design changes. at 4-66. Since there is no submitted ROW application to the BLM, there is no way of knowing where the rail spur ROW would be – though BLM should ensure that the site is not affected. Further, the Hopi tribe must be involved in any ROW decisions, which is not documented in the DEIS. The FEIS must state that there are unresolved concerns about the sites LA187010 and LA89676 and the rail spur or document how Hopi concerns, and any others, have been resolved.

Additionally, the DEIS does not discuss the historic and statewide environmental injustices that were frequently mentioned in scoping comments, including the Trinity Test, uranium mining, milling, and ore hauling and the tremendous public health and environmental impacts that those nuclear-related activities continue to have on New Mexicans.

Nor does the DEIS discuss the fact that more than 90 percent of SNF is east of the 100th meridian, and that New Mexico has none of that SNF, yet New Mexico, a “minority-majority states” is being targeted for all of that waste. That targeting is clearly an environmental injustice, and was included

in the SRIC scoping comments. at 7. Yet again, the comment was not included in the scoping summary.

Therefore, it is clear that NRC does not have adequate expertise in environmental justice. The DEIS is clearly legally and technically inadequate because it does not use the local expertise that exists on that issue, nor does it respond to the substantive comments about TCP, historic nuclear-related environmental injustices, or the targeting of New Mexico for the nation's SNF.

5. The DEIS has demonstrable shoddy work errors

In addition to the many illegal and technical inadequacies, even a cursory review shows obviously shoddy and incompetent work. For example, the DEIS Index shows NWPA is referred to on pages lvi, 3-12, 4-13, 4-81. The correct page is liv. NWPA does not appear on page 4-81; it is mentioned on page 4-79. Thus, regarding NWPA, the index is only 50 percent accurate. That is a failing grade in most schools and certainly is not sufficient for technically adequate government work!

The DEIS Overview (ML20073P254) states:

The NRC previously licensed one other away-from-reactor dry cask spent fuel storage facility, called Private Fuel Storage (NUREG-1714); however, that facility was never built and the license was subsequently terminated. at 2.

Thus, the DEIS Overview is factually inaccurate as the license has not been withdrawn, and also is not consistent with the content of the scoping summary and the DEIS. Such shoddy work does not, and should not, demonstrate adequate technical capabilities of the NRC.

Thank you for your careful consideration of, and response to, these and all other comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Hancock". The signature is written in a cursive, flowing style.

Don Hancock



State of New Mexico

Michelle Lujan Grisham
Governor

June 7, 2019

The Honorable Rick Perry
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

The Honorable Kristine Svinicki
Chairman
U.S. Nuclear Regulatory Commission
Mail Stop O-16B33
Washington, DC 20555-0001

Dear Secretary Perry and Chairman Svinicki:

I write to express my opposition to the proposed interim storage of high-level radioactive waste in the state of New Mexico. The interim storage of high-level radioactive waste poses significant and unacceptable risks to New Mexicans, our environment and our economy. Furthermore, the absence of a permanent high-level radioactive waste repository creates even higher levels of risk and uncertainty around any proposed interim storage site.

As you know, the Nuclear Regulatory Commission (NRC) is evaluating the issuance of a 40-year license to Holtec International for a consolidated interim storage facility in southeastern New Mexico. As proposed, this facility would store spent nuclear fuel (SNF) and reactor-related materials greater than low-level radioactive waste.

A facility of this nature poses an unacceptable risk to New Mexicans, who look to southeastern New Mexico as a driver of economic growth in our state. New Mexico's agricultural industry contributes approximately \$3 billion per year to the state's economy, \$300 million of which is generated in Lea and Eddy Counties, where the proposed facility is to be sited.

Further, the Permian Basin, situated in west Texas and southeastern New Mexico, is the largest inland oil and gas reservoir and the most prolific oil and gas producing region in the world. New Mexico's oil and natural gas industry contributed approximately \$2 billion to the state last year. According to the U.S. Energy Information Administration (EIA), Lea County and Eddy County were ranked the second and sixth oil-producing counties in the country, respectively, earlier this year, with production continuing to increase.

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June 7, 2019

The Honorable Rick Perry
The Honorable Kristine Svinicki

Establishing an interim storage facility in this region would be economic malpractice. Any disruption of agricultural or oil and gas activities as a result of a perceived or actual incident would be catastrophic to New Mexico, and any steps toward siting such a project could cause a decrease in investment in two of our state's biggest industries. For those reasons, the New Mexico Cattle Growers' Association, the New Mexico Farm and Livestock Bureau and the Permian Basin Petroleum Association have all sent me letters opposing high-level waste storage in southeastern New Mexico. I have attached their letters for your review.

In addition to significant economic concerns about this project's potential impact on agriculture and the oil and gas industry, I am concerned about the financial burden it could place on the state and local communities. Transporting material of this nature safely requires both well-maintained infrastructure and highly specialized emergency response equipment and personnel that can respond to an incident at the facility or on transit routes. The state of New Mexico cannot be expected to support these activities.

Finally, given that there is currently no permanent repository for high-level waste in the United States, any interim storage facility will be an indefinite storage facility. Over this time, it is likely that the casks storing SNF and high-level wastes will lose integrity and will require repackaging. Any repackaging of SNF and high-level wastes increases the risk of accidents and radiological health risks. Again, New Mexicans should not have to tolerate this risk.

Given the potential for adverse impacts to public health, the environment and our economy, I cannot support the interim storage of SNF or high-level waste in New Mexico.

I thank you for your consideration of these concerns and look forward to your reply.

Sincerely,



Michelle Lujan Grisham
Governor



New Mexico Cattle Growers' Association

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May 15, 2019

Office of the Governor Michelle Lujan Grisham
490 Old Santa Fe Trail Room 400
Santa Fe, NM 87501

Governor Lujan Grisham,

We are writing to express our concern with Holtec International's application to the U.S. Nuclear Regulatory Commission (NRC) requesting authorization to construct and operate a HI-STORE consolidated interim storage facility (CISF) for spent nuclear fuel at a site in Lea County, New Mexico. On behalf of the membership of the New Mexico Cattle Growers' Association (NMCGA), with members in all 33 of the state's counties as well as 19 other states, we appreciate the opportunity to write to you with our concerns. NMCGA believes that a nuclear waste storage would have unknown impacts on agricultural production, the primary economic engine for the surrounding area of the proposed site. NMCGA also has concerns for the local communities' safety and the negative perception associated with a nuclear waste storage facility being located within their counties and communities.

We understand that the process for selection of a location for the proposed nuclear waste disposal facility began in March of 2006. We understand that the formation of ELEA may be seen as the counties and local communities consent for the proposed project. However, we have concerns that the Bureau of Land Management (BLM) and New Mexico State Land lessees have not been continuously informed and that their input has not been considered. They will be directly affected as their land surrounds the project and the proposed project will need to build a new access road and a new railroad spur that will need to cross BLM land. This will likely impact the lessees of these lands, not only will land be taken away for the construction of the road and railroad spur, but in the construction land will be disturbed and trampled.

We understand that outreach and education in the local communities has been pursued by ELEA in conjunction with Holtec International, however it has recently come to our attention that nine New Mexico state Senators and 21 New Mexico state Representatives have expressed their concerns to the NRC. Their primary concerns deal with health, safety, financial and transportation risks to the state of New Mexico and our communities. There seems to be building controversy over the proposed project despite ELEA's assertion that there is strong community support.

Similarly last year New Mexicans fought off attempts by Enercon Federal Service, LLC and DOSECC Exploration Service, LLC to test drill deep boreholes that could potentially be used to as a repository for nuclear waste. New Mexico already has the Waste Isolation Pilot Plat (WIPP), we believe that is our fair share in the area of nuclear waste disposal. New Mexico has been impacted by almost every step in the nuclear fuel chain, however we did not generate this waste from the nuclear reactors that this waste is intended to come from. We understand that this waste must go somewhere and it has been a long process to seek out what is considered an ideal location, however New Mexico has been targeted over and over for nuclear and hazardous waste disposal. New Mexico is one of a handful of states that is currently handling radioactive, nuclear, or hazardous waste disposal or is being targeted to deal with radioactive, nuclear, or hazardous waste disposal for the rest of the country.

Safe or not the perception of living and working next to a nuclear waste site is negative. Who would want to live or work next to a nuclear waste site? Just because only nine people are estimated to live in a 5 mile radius doesn't mean that this nuclear waste disposal site won't impact these people's lives significantly. There is already a similar waste disposal site within 16 miles of the proposed site. However, WIPP was shut down in 2014 due to a radioactive leak and only reopened in 2017. Despite best efforts and ensured safety the local community will be reminded due to WIPP that no waste disposal site can absolutely guarantee that leaks and other safety concerns won't happen. This creates a stigma for the area and greatly affect local producers and land owners. An example of the Gold King Mine spill comes to mind, despite being reassured by the federal government of the safety of the water and crops/livestock that were potentially exposed to the water, entire communities would not consume or purchase these crops/livestock. Despite the passing of three years communities and consumers are still wary of those affected by the Gold King Mine spill. We are greatly concerned that the local community and producers will suffer due to the stigma of a nuclear waste disposal site.

We are greatly concerned that the state as a whole, as well as the local communities, is unaware of the safety concerns regarding transportation of the spent nuclear fuel to the proposed site as New Mexico does not keep records of hazardous materials transported to or from our state. If there is no records of the shipments via roadways or rail and there is no record of what specific types or quantities of hazardous materials, where is the reassurance and proof that our citizens and communities will be safe without any records indicating the safety or even the shipment of previously transported hazardous material.

We thank you for the opportunity to write to you and have our concerns addressed. NMCGA would like assurances that every effort is being made to inform those directly involved by the Holtec International HI-STORE CIS project including the BLM and State land lessees and the surrounding communities. Not only should these individuals be informed, but their input should be considered. The surrounding lessees and communities are the ones that are going to be directly affected not only by the stigma of a nuclear waste site but by the construction and operation of the project, their concerns need to be heard and considered.

If you or your offices have any questions please don't hesitate to call our offices at 505-247-0584 or email us at nmcga@nmagriculture.org.

Sincerely,



Tom Sidwell
President

TOM SIDWELL, President, Quay; RANDELL MAJOR, President-Elect, Magdalena, LOREN PATTERSON, Vice-President At Large, Corona; TY BAYS, SW Vice-President, Silver City; DUSTIN JOHNSON, NW Vice-President, Farmington; JEFF BILBERRY, SE Vice-President, Roswell; BLAIR CLAVEL, NE Vice-President, Roy; SHACEY SULLIVAN, Secretary-Treasurer, Bosque Farms; PAT BOONE, Past-President, Elida; CAREN COWAN, Executive Director, Albuquerque



NEW MEXICO FARM & LIVESTOCK BUREAU

2220 N. Telshor Blvd • Las Cruces, New Mexico 88011 • (575) 532-4700 • Fax (575) 532-4710

May 15, 2019

The Honorable Governor Michelle Lujan Grisham
Office of the Governor
State of New Mexico
490 Old Santa Fe trail, Room 400
Santa Fe, NM 87501

Re: Proposed Holtec High Level Nuclear Waste Storage Facility Lea and Eddy Counties, New Mexico

Dear Governor Lujan Grisham:

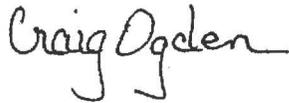
The New Mexico Farm & Livestock Bureau (NMF&LB) submits these comments on behalf of our 19,000 member-families. NMF&LB is New Mexico's largest agricultural organization, representing members involved in all aspects of agriculture including dairy, livestock, fruits and vegetables. Our mission is to promote and protect agriculture in the great State of New Mexico. We are charged with the important task of representing our members' interests when it comes to impending regulations.

NMF&LB appreciates the opportunity to provide comments regarding the Proposed Holtec High Level Nuclear Waste Storage Facility for Lea and Eddy Counties, New Mexico. NMF&LB strongly opposes the storage of nuclear waste being placed on or beneath agricultural land in New Mexico. The proposed site would encompass Lea and Eddy counties. These counties account for more than 3 million acres of farm and ranch land and hold more than 140,000 head of cattle (beef & dairy). The total annual value of agricultural products that come from Lea and Eddy Counties is more than 300 million dollars. The agriculture industry in New Mexico brings more than three billion dollars into the state annually.

The storage of nuclear waste could have a negative impact by decreasing the value of agricultural lands and compromising the safety of water sources in proximity to the stored waste. There would also be a higher risk for people, animals and crops within Lea and Eddy counties to be exposed to nuclear waste, which would lead to sickness in both people and animals, along with the contamination of many crops. Mishandling of nuclear waste or a nuclear waste related accident would totally devastate agriculture within these counties, and it is a risk we simply can not afford to take.

The New Mexico Farm & Livestock Bureau appreciates the opportunity to share the concerns of our organization. We must not take any risks when it comes to our agricultural lands, especially when it comes to nuclear storage. We respectfully request these comments and the lives of affected people in the proposed area are taken into consideration in making a determination for the proposed Holtec site.

Respectfully submitted,

A handwritten signature in black ink that reads "Craig Ogden". The signature is written in a cursive style with a long horizontal stroke at the end.

Craig Ogden
President



May 14, 2019

Governor Michelle Lujan Grisham
Office of the Governor
State of New Mexico
490 Old Santa Fe Trail, Room 400
Santa Fe, NM 87501

Re: Proposed Holtec High Level Nuclear Waste Storage Facility
Lea and Eddy Counties, New Mexico

Dear Governor Lujan Grisham:

The Permian Basin Petroleum Association ("PBPA") is in support of all types of energy production and is not opposed to the utilization of nuclear energy by the United States of America. However, members of the PBPA have several concerns regarding the Holtec International High Level Nuclear Waste Storage Facility ("Holtec") to be located in Southeast New Mexico. These members are just as concerned about the Waste Control Specialist Facility in Andrew County, Texas. There are concerns about safety, impacts to economics for the region and state, and unintended consequences concerning the geopolitical position energy production in the Permian Basin has currently afforded our nation.

The PBPA is the largest regional oil and gas association in the United States. Since 1961, the PBPA has been the voice of the Permian Basin oil and gas industry. The PBPA's mission is to promote the safe and responsible development of our oil and gas resources while providing legislative, regulatory and educational support services for the petroleum industry. The PBPA membership includes the smallest exploration and services companies as well as some of the largest companies with world-wide operations. The Permian Basin is the largest inland oil and gas reservoir and the most prolific oil and gas producing region in the world.

The proposed Holtec site is to be located in the Permian Basin. The fifty-five counties of New Mexico and Texas that make up the Permian Basin region are producing over four million barrels of oil per day (U.S. Energy Information Administration, May 2019) and are forecast to reach production of six million barrels per day by the year 2025.

At a time when our nation, and New Mexico specifically, has ramped up domestic oil production, thus creating prosperity for our citizens and the state, while also reducing our dependence upon foreign oil, it would be counterintuitive to potentially jeopardize this means of economic prosperity and energy security without incredibly just reasoning. So the concern we

have is that the placement of this facility housing high level radioactive waste puts at risk the most important energy producing basin in North America.

PBPA members understand that Holtec International believes they have a very rigorous containment system and that the U.S. Nuclear Regulatory Commission ("NRC") is actively seeking out a permanent solution for the containment of high level radioactive nuclear waste. However, anything higher than a zero risk of exposure, and the Federal government should not consider storing temporarily, permanently, or for any amount of time high level radioactive nuclear waste in the Permian Basin. Exposure due to human error or malfeasance during either transportation or storage would not only create a natural disaster but would also create irreparable economic harm for the region, the state and our nation.

Lastly, a comprehensive study of the infrastructure and means of transportation of the storage casks is either lacking or inadequate. The oil field traffic in the region has caused grid lock and many of the existing roads are in a state of disrepair. The State of New Mexico as well as Texas has been struggling to keep up with the infrastructure necessary for the resurgence of the oil industry. Train derailments and bridge strikes are a frequent occurrence and have increased due to the unprecedented growth in the Permian Basin with several of these incidences occurring within highly populated areas.

On behalf of the PBPA, I appreciate the opportunity to share our concerns. We hope you take them into consideration in making any determinations regarding the Holtec site. Again, the PBPA is in support of all types of energy production and is not opposed to the utilization of nuclear energy by our nation. However, any risk to energy production from the Permian Basin, because of the benefits such production provides for the people of New Mexico, Texas, and our nation, should not be taken lightly. Instead, such risks should be thoroughly vetted and the source of such risks must pass incredibly high measurements and standards if they're allowed to persist.

Regards,



Ben Shepperd
President
Permian Basin Petroleum Association