

## **ADMRegs-Holtec-CISFEISCEm Resource**

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# PUBLIC SUBMISSION

**Docket:** NRC-2018-0052

Holtec International HI-STORE Consolidated Interim Storage Facility Project

**Comment On:** NRC-2018-0052-0001

Holtec International HI-STORE Consolidated Interim Storage Facility Project

**Document:** NRC-2018-0052-DRAFT-0077

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## General Comment

See attached file(s)

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## Attachments

5 18 18 Why Are All These High Risks Being Taken in the First Place

**SUNSI Review Complete**

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**ADD= Anntoinette Walker-Smith,**

**Jill Caverly (JSC1)**

**COMMENT (#85)**

**PUBLICATION DATE: 3/30/2018**

**CITATION: 83 FR 13802**

Re: "Docket ID NRC-2018-0052"

Submitted by Kevin Kamps, Radioactive Waste Specialist, Beyond Nuclear, May 18, 2018

**Public Comments Re: Why Are All These High Risks Being Taken in the First Place?!**

Why are all these high risks being taken in the first place? For no good reason whatsoever! Certainly not to benefit public health, safety, security, or environmental protection, despite Holtec International/Eddy-Lea [Counties] Energy Alliance (Holtec/ELEA), and nuclear power industry, claims and PR-spin to the contrary.

Truth be told, it's to transfer title, liability, costs, and risks, for the highly radioactive irradiated nuclear fuel, from the nuclear power electrical utility companies that generated it, and profited from its generation, onto the backs of federal taxpayers (if the U.S. Department of Energy (DOE) is stuck paying all the bills – and/or onto the backs of nuclear electricity ratepayers, if Holtec/ELEA's lobbyists can finagle access to the monies remaining in the Nuclear Waste Fund coffers). That's a pretty big favor to the companies – in fact, it's unique in all of industry.

And of course, if Holtec/ELEA can make large profits (at public expense), "temporarily storing" these highly radioactive wastes (for 40 years, to 120 years, to *de facto* permanently), without having to shoulder any of the costs, or risk-liabilities, well, that would work well for them!

Dr. Mark Cooper of Vermont Law School, in December 2013, in his expert witness comments to the U.S. Nuclear Regulatory Commission's (NRC) Nuclear Waste Confidence/Continued Storage of Spent Nuclear Fuel EIS (Environmental Impact Statement) proceeding, calculated that the first 200 years of commercial irradiated nuclear fuel storage will cost \$210 to 350 billion (yes, with a B). (See his expert comments at < <https://web.archive.org/web/20160909042541/http://www.nirs.org/radwaste/exhibitd2013-12-16markcooperfinaldeclaration.pdf>>, as well as the related press release at < <http://www.cleanenergy.org/2013/12/19/waste-disposal-nrc/>>.)

His estimate assumed two centralized interim storage facilities (CISFs; and as it turns out, Holtec/ELEA in New Mexico, and Waste Control Specialists, LLC in Texas (WCS) – just 38 miles from each other – have now both applied to NRC for CISF construction and operation licenses), one permanent geologic repository (burial dump, as currently targeted at Yucca Mountain, Nevada), and ongoing on-site storage at nuclear power plants, as needed. His calculation effectively doubled the costs of nuclear-generated electricity, because those irradiated nuclear fuel management costs had never been accounted for, not in well over a half-century of commercial irradiated nuclear fuel generation in the U.S. (the first civilian reactor

began operations, and highly radioactive irradiated nuclear fuel generation, at Shippingport, Pennsylvania in 1957, 61 years ago.)

Thus, centralized interim storage, as at Holtec/ELEA in NM, as well at WCS in TX, would be yet another significant public subsidy, benefitting the nuclear power industry, on top of more than a half-century of significant public subsidies of various sorts. (See the Union of Concerned Scientists' 2011 report < <http://www.ucsusa.org/nuclear-power/cost-nuclear-power/nuclear-power-subsidies-report#.WK3Iz4WkUZU>>, for a comprehensive, yet still not exhaustive, overview of the many assorted, unmatched by any other industry, public subsidies the nuclear power industry has enjoyed over the past several decades.)

At NRC public comment meetings in Hobbs, NM and Andrews, TX in mid-Feb. 2017, re: the WCS CISF proposal, then (since replaced) WCS CEO, Rod Baltzer, pushed back against this criticism. He said that the federal taxpayer is already obligated to pay for irradiated nuclear fuel storage, because DOE signed contracts with nuclear utilities in the mid-1980s, pledging to begin "taking out the garbage" (my words, not Baltzer's) in 1998. He pointed out that the utilities have sued DOE for breach of contract, and won damages from the U.S. Judgment Fund, which draws taxpayer funding from the U.S. Treasury, **not** nuclear-generated electricity ratepayer funding from the Nuclear Waste Fund.

(NRC suspended the WCS license proceeding, at the company's request, in 2017. However, "under new management," WCS may again "hit the play button" on its "paused" proceeding, at any time now. For more info., see: <http://www.beyondnuclear.org/centralized-storage/2018/3/14/orano-areva-wcs-aim-to-revive-spent-fuel-storage-project.html> .

And we'll see, during the impending NRC environmental scoping proceeding, as well as the license intervention hearings, if Holtec/ELEA utilizes similar or identical arguments to WCS's, to push back against opponents.)

WCS was right on this one point: U.S. taxpayers are hemorrhaging \$500 million per year in these damage awards, as Beyond Nuclear reported, and warned about, way back in 2010 < <http://ieer.org/wp/wp-content/uploads/2010/03/NewWasteDisposalContractsBackgrounderFINAL3.pdf>>.

But our criticism actually still holds. Under the Nuclear Waste Policy Act, as Amended, the nuclear utilities (meaning their electricity consumers, a.k.a. ratepayers, as well as shareholders) are responsible for interim storage of irradiated nuclear fuel. Federal taxpayers are responsible (unfortunately, and often, unwittingly) for final disposal, in a so-called "deep geologic repository."

This simple fact, and rule of law, formed the basis for an environmental coalition letter to NRC in Oct. 2016, pointing out that the WCS license application is illegal, and that the agency should cease and desist from processing it. (See

<http://www.beyondnuclear.org/centralized-storage/2016/10/26/despite-setbacks-beyond-nuclear-and-allies-continue-to-chall.html> for additional information.)

Does Holtec/ELEA intend to foot the bill for its CISF in s.e. NM? Does it intend to assume title and liability for the irradiated nuclear fuel? Or will the nuclear power utilities retain title and liability, pay all costs, and assume all risks? If this is the case, then why doesn't Holtec/ELEA simply utilize the Private Fuel Storage, LLC (PFS) CISF, already approved by NRC over a decade ago? PFS, targeted at the Skull Valley Goshute Indian Reservation in west UT, was highly controversial – due to its blatant environmental injustice, or in other words, radioactive racism -- but that didn't prevent NRC from ultimately rubber-stamping the scheme. For more info., see: <http://archives.nirs.us/radwaste/scullvalley/skullvalley.htm> .

Well, the simple answer, and open secret, is: Holtec/ELEA doesn't want to shoulder the costs, risks, and liabilities. (Neither does the nuclear power industry.) Holtec/ELEA would prefer DOE (that is taxpayers, and/or ratepayers) shoulder those, while it simply pockets the profits.

(Incredibly, even though Holtec would have provided all 4,000 canisters and casks to ship and store the 40,000 metric tons of irradiated nuclear fuel targeted at the Skull Valley Goshutes Indian Reservation in UT, it claims in its Holtec/ELEA, NM CISF Environmental Report (ER) that PFS was not licensed, nor was any other CISF, by NRC, in the past. This is blatantly false! NRC did license PFS, over a decade ago, despite widespread opposition within UT, and across the country. PFS chose not to utilize its permission from NRC to construct and operate the CISF in UT. If anyone should know that NRC licensed PFS, it should be Holtec. How can NRC allow Holtec to make such blatantly false assertions in its ER for the CISF it is targeting at s.e. NM?! What is Holtec's motivation for spewing such falsehoods in the license application for the NM CISF scheme?)

Current law requires a final disposal repository to be constructed and operating (not just licensed by NRC), before DOE can take title and liability for commercial highly radioactive irradiated nuclear fuel wastes, and start paying for such costs as transportation to and disposal at that permanent dumpsite.

DOE **cannot** pay federal taxpayer dollars for privately-owned and -operated CISFs, absent a licensed, constructed, opened, and operating permanent geological repository. This legal prohibition applies at both Holtec/ELEA's CISF scheme in NM, and WCS's CISF scheme, 38 miles away in TX. This is not legal under the Nuclear Waste Policy Act, as Amended, a.k.a. current law.

WCS is seeking an end run around this legal constraint. Truth be told, elephant in the room be outed, so too is Holtec/ELEA, although they may be too savvy to come right out and say it in their license application documents.

This is very risky for U.S. federal taxpayers, and/or nuclear electricity ratepayers. The linkage between an operating final disposal repository, and a centralized interim storage facility (CISF), in the Nuclear Waste Policy Act, as Amended, is to guard against centralized interim storage from becoming a *de facto* permanent, surface storage, “parking lot dump,” the costs, liabilities and risks of which, the U.S. federal taxpayer, and/or nuclear electricity ratepayers, may get stuck with, indefinitely, or forevermore.

This end run around the precautionary linkage between an operating repository, and one or more centralized interim storage facilities, that WCS seeks, and very likely Holtec/ELEA also seeks, would be a huge boon to the nuclear power industry. It would expedite the transfer of all costs, risks, and liabilities for irradiated nuclear fuel, from the nuclear utilities that profited from its generation, onto the backs of U.S. federal taxpayers, and/or nuclear utility ratepayers, sooner rather than later -- even before a final disposal repository is operating. Long before, actually: the DOE’s most recent estimate, as to when a repository can be opened, is 2048, 30 years from now! But even that is very likely an overly optimistic opening date!

Such a significantly accelerated transfer of the costs, risks, and liabilities for forever deadly, highly radioactive, irradiated nuclear fuel, means the nuclear utilities can walk away from the mess they’ve made all the sooner – many decades sooner – than would otherwise be the case under current law, removing those lingering liabilities and risks from their own ledgers, once and for all.

WCS is clear about those costs, risks, and liabilities. WCS has been careful, making it a licensing condition, that all those costs, risks, and liabilities for the irradiated nuclear fuel would be solely on DOE – that is, on U.S. federal taxpayers (and/or, if it can be finagled, nuclear electricity ratepayers, via accessing the Nuclear Waste Fund). WCS will accept none of those costs, risks, or liabilities. This of course sets up a moral hazard with a highly radioactive twist. WCS, a private, for-profit company, will have every incentive to cut corners, and take short cuts on safety, human health protection, and environmental protection, in order to save money, and boost its own profits. After all, DOE – U.S. federal taxpayers – will be shouldering all costs, risks, and liabilities. If anything goes wrong, it won’t be WCS’s problem – it’ll be the taxpayers’ problem! (And/or that of nuclear electricity ratepayers, as mentioned above.)

In its licensing application documents, Holtec/ELEA has been more savvy, and less blatant, about off-loading costs, risks, and liabilities on taxpayers and/or ratepayers. But if this is truly the case, why then doesn’t Holtec/ELEA simply utilize the PFS license NRC rubber-stamped for a CISF targeted at a tiny, low income Native American tribal reservation community in UT (the Skull Valley Band of Goshute Indians)? The reason is, neither Holtec/ELEA, nor the nuclear power industry, want to retain that title, and those consequent risks and liabilities, let alone pay all those costs, associated with CISFs!

Such considerations are what is actually “driving” decision-making, such as Holtec/ELEA’s application to NRC for permission to construct and operate a CISF in s.e. NM.

*Prepared on May 18, 2018. For more info., please contact Kevin Kamps, Beyond Nuclear’s Radioactive Waste Specialist, at [kevin@beyondnuclear.org](mailto:kevin@beyondnuclear.org). Learn more about radioactive waste risks at: <http://www.beyondnuclear.org/radioactive-waste/>*

*And learn more about nuclear power’s financial risks and other monetary costs at: <http://www.beyondnuclear.org/nuclear-costs/>*