

June 13, 2018

Annette Vietti-Cook, Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

SUBJECT: *Failure of Regulations.gov for comments on Scope of EIS for
Holtec International HI-STORE Consolidated Interim Storage
Facility Project, Docket No. 72-1051; NRC-2018-0052*

Dear Ms. Vietti-Cook:

On behalf of Beyond Nuclear, Concerned Citizens for Nuclear Safety and Nuclear Information and Resource Service, we are writing to lodge a complaint about the utter failure of the website "Regulations.gov" to provide a clear and reliable means for submitting comments on the scope of the Environmental Impact Statement ("EIS") for the proposed HI-STORE Consolidated Interim Storage Facility, as noticed by the U.S. Nuclear Regulatory Commission at 83 Fed. Reg. 13,902 (Mar. 30, 2018) and 83 Fed. Reg. 22,714 (May 16, 2018). We request you to ensure the Regulations.gov system is functioning and then re-notice a 90-day opportunity to submit scoping comments. In the alternative, if you are unable to provide such assurance, we request that you issue a public explanation and provide an alternative primary means of submitting comments.

As noticed at 83 Fed. Reg. 13,902, the NRC opened the period for submitting comments on the scope of the Holtec EIS on March 30, 2018 and conducted scoping meetings around the country in April and May. The period for scoping comments originally was scheduled to close May 29, 2018 (*i.e.*, after 60 days). In response to a request from 52 organizations for an additional 120 days (*i.e.*, until October 30), the NRC partially granted the request by extending the deadline until July 30 (an additional 60 days). In both Federal Register notices, posting on Regulations.gov was offered as the primary means for submitting comments. 83 Fed. Reg. 22,714.

Members of the public have had difficulty using Regulations.gov between April and June. Although Regulations.gov worked some of the time, it was spotty. On May 1, at an EIS scoping meeting in Hobbs, New Mexico, Joni Arends of Concerned Citizens for Nuclear Safety notified the NRC orally that she and others had encountered difficulties submitting comments to NRC's Regulations.gov docket. Similarly, between May 18 and May 31, Beyond Nuclear staff member Kevin Kamps tried to file comments on Regulations.gov a dozen times but was unsuccessful and received repeated error messages. On May 18, Leona Morgan of the Nuclear Issues Study Group also informed Beyond Nuclear that Regulations.gov was not working properly. Undersigned counsel for Beyond Nuclear tried multiple times on June 7, and also received error messages.

On May 22, 2018, Mr. Kamps notified the NRC Staff that Regulations.gov was not functioning and asked for more time to comment. E-mail from Kevin Kamps to Jill Caverly and Jose Cuadrado (Attachment 1). Cody Slama of the Nuclear Issues Study Group also notified the NRC of the problem at a May 22 scoping meeting in Albuquerque, and asked for an extension of the comment period. But the problem was not corrected, and the NRC did not add any time to the

comment period. Instead, the NRC wrote to Mr. Kamps that Beyond Nuclear's comments did, in fact, register on the website; and that if Beyond Nuclear had trouble submitting comments on Regulations.gov, it could file them by one of the other means identified in the Federal Register notice of May 16, 2018. E-mail from Jessie Quintero to Kevin Kamps (May 22, 2018) (Attachment 2); E-mail from Jessie Quintero to Kevin Kamps (May 23, 2018) (Attachment 3).

On May 31, 2018, Mr. Kamps wrote again to the NRC regarding the failure of Regulations.gov. E-mail from Kevin Kamps to Jill Caverly, et al. (Attachment 4). By e-mail dated June 1, 2018, Jill Caverly responded that she had verified that Beyond Nuclear's comments had registered on the Regulations.gov website, despite the error message. She also suggested that Mr. Kamps send comments by e-mail to Holtec-CISFEIS@nrc.gov. (Attachment 5). Mr. Kamps responded the same day that the continuing failure of Regulations.gov was unacceptable, and that Regulations.gov provides no information regarding alternative means of serving comments. (Attachment 6).

On June 11, 2018, Ms. Caverly wrote again to Mr. Kamps:

I have confirmed that regulations.gov did receive comments and was working during the time in which you were having difficulties submitting your comments. I can't explain why you were unable to see that your comments were successfully uploaded; perhaps your computer settings were causing the issues. Thank you for the information and for commenting.

(Attachment 7).

Given that at least four different people were unable to use Regulations.gov, using different computers on a variety of dates, it is clear that these individuals' "computer settings" were not the cause of their problems with the website, as suggested by Ms. Caverly. Instead, the problem is that the NRC accepted the ongoing dysfunction of Regulations.gov without seeking to correct it. This lack of concern for or attention to the mechanics of the commenting process is not acceptable in any proceeding, let alone a proceeding with such important public significance and nationwide public interest as the licensing proceeding for the proposed Holtec facility. If approved, Holtec's project would entail shipments of spent reactor fuel from all over the country to a site in New Mexico. Unsurprisingly, it has generated a great deal of interest and concern. Thus far, at the six public comment meetings NRC has held, 233 persons have spoken at the verbal comment microphone to register opposition to the Holtec proposal. On May 3rd, at the Carlsbad, NM meeting, Leona Morgan of the Nuclear Issues Study Group submitted more than 1,300 signed public comments from New Mexicans, expressing opposition to the Holtec proposal.

Given the great public significance of the issues raised by the Holtec application, it is extremely important for the NRC to offer members of the public a reliable means for commenting on the scope of the NRC's environmental review. It should not be necessary to try multiple methods before finding one that "works," or to make repeated attempts to use the primary method identified by the NRC. Under the circumstances, the NRC should ensure that Regulations.gov

Annette Vietti-Cook
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functions and re-publish the notice of opportunity to submit scoping comments within 90 days of the notice.

Thank you for your consideration.

Sincerely,

/s/ Diane Curran
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Co-founder and Executive Director, CCNS

/s/ Tim Judson
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Executive Director, NIRS

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/s/ Leona Morgan
Nuclear Issues Study Group
202 Harvard Dr. SE
Albuquerque, NM 87102
505-879-8547
leonamorgan@icloud.com
Co-Coordinator, Nuclear Issues Study Group

Cc: NRC Commissioners
Jose Cuadrado
Jill Caverly
Jessie Quintero

Attachment 1

From: **Kevin Kamps** <kevin@beyondnuclear.org>
Date: Tue, May 22, 2018 at 3:41 PM
Subject: Regulations.gov re: Re: "Docket ID NRC-2018-0052" has not accepted my comments for over four days now
To: "Caverly, Jill" <jill.caverly@nrc.gov>, jose.cuadrado@nrc.gov, jose.cuadrado-caravallo@nrc.gov

Dear Ms. Caverly and Mr. Cuadrado,

I would like to call to your attention to a problem with www.regulations.gov, re: Docket ID NRC-2018-0052. I have tried for the past four days, since May 18, 2018, to submit comments online via this website. Every single time over the past several days, including about a half-hour ago, when I hit the submit button to submit my comments, I got the following error message back:

An unexpected error has occurred, please try your operation again. If you are still having problems, please contact us.

I have not had the time, due to other responsibilities, to contact www.regulations.gov. I was hoping that you could see to alerting the folks at www.regulations.gov of the need to fix this problem as soon as possible.

I would humbly request that NRC add as many days onto the July 30, 2018 deadline, to compensate the public for the inaccessibility of the www.regulations.gov site re: Docket ID NRC-2018-0052.

Thank you for addressing this problem as soon as possible. It is most unfortunate that at such a critical time -- the currently final scheduled NRC meetings for environmental scoping public comment -- that one of the major ways for the public to submit comments (via www.regulations.gov) is not even working.

As Susan Schuurman of the Albuquerque Center for Peace and Justice commented at the Carlsbad, NM NRC public meeting, how is the public supposed to be able to trust NRC to ensure highly radioactive waste is contained, safeguarded and secured indefinitely into the future, when the agency cannot even ensure the air conditioning is working properly in the meeting room?!

I would make the same point regarding the current, prolonged inaccessibility of the www.regulations.gov site, re: Docket ID NRC-2018-0052.

Given this inaccessibility presently, please forward this email as official public comment for the record re: Docket ID NRC-2018-0052, however that can happen.

Sincerely,

Kevin Kamps

--

Kevin Kamps
Radioactive Waste Specialist
Beyond Nuclear
6930 Carroll Avenue, Suite 400
Takoma Park, Maryland 20912

Cell: (240) 462-3216

Fax: (301) 270-4000

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www.beyondnuclear.org

Beyond Nuclear aims to educate and activate the public about the connections between nuclear power and nuclear weapons and the need to abolish both to safeguard our future. Beyond Nuclear advocates for an energy future that is sustainable, benign and democratic.

Attachment 2

From: Quintero, Jessie Jessie.Quintero@nrc.gov
To: Kevin Kamps kevin@beyondnuclear.org
CC: "Caverly, Jill" <Jill.Caverly@nrc.gov>, "Cuadrado-Caraballo, Jose" Jose.Cuadrado-Caraballo@nrc.gov
Date: Tue, May 22, 2018 at 4:07 PM
Subject: RE: Fwd: Regulations.gov re: Re: "Docket ID NRC-2018-0052" has not accepted my comments for over four days now

Mr. Kamps,

Thank you for the heads-up about the issues with Regulations.gov. I have reached out to our coordinator for the site to see if she is aware of any issues with the Regulations.gov website, however, we do not manage that website.

In the same *Federal Register* notice published on May 16, 2018 that extended the comment period out until July 30, we also provided an email address which the public could use to submit comments. Therefore, if you are unable to use regulations.gov, you can submit your comments via email to Holtec-CISFEIS@nrc.gov.

I will submit your comment, as you requested, so that it is captured as a comment on the scope of the Holtec EIS.

Thanks,

Jessie Quintero

Attachment 3

From: Quintero, Jessie <Jessie.Quintero@nrc.gov>
To: Kevin Kamps kevin@beyondnuclear.org
CC: "Caverly, Jill" <Jill.Caverly@nrc.gov>, "Cuadrado-Caraballo, Jose" Jose.Cuadrado-Caraballo@nrc.gov
Date: Wed, May 23, 2018 at 8:32 AM
Subject: RE: Fwd: Regulations.gov re: Re: "Docket ID NRC-2018-0052" has not accepted my comments for over four days now

Good morning Mr. Kamps,

I heard back from our coordinator and she noted that there are four comments in the system, submitted by you on May 18, 2018, each with a different attachment. Your four comments will get processed with all the other comments submitted via Regulations.gov.

Thanks,

Jessie Quintero

From: Quintero, Jessie
Sent: Tuesday, May 22, 2018 4:08 PM
To: 'Kevin Kamps' <kevin@beyondnuclear.org>
Cc: Caverly, Jill <Jill.Caverly@nrc.gov>; Cuadrado-Caraballo, Jose <Jose.Cuadrado-Caraballo@nrc.gov>
Subject: RE: Fwd: Regulations.gov re: Re: "Docket ID NRC-2018-0052" has not accepted my comments for over four days now

Mr. Kamps,

Thank you for the heads-up about the issues with Regulations.gov. I have reached out to our coordinator for the site to see if she is aware of any issues with the Regulations.gov website, however, we do not manage that website.

In the same *Federal Register* notice published on May 16, 2018 that extended the comment period out until July 30, we also provided an email address which the public could use to submit comments. Therefore, if you are unable to use regulations.gov, you can submit your comments via email to Holtec-CISFEIS@nrc.gov.

I will submit your comment, as you requested, so that it is captured as a comment on the scope of the Holtec EIS.

Thanks,

Jessie Quintero

Attachment 4

From: Kevin Kamps [mailto:kevin@beyondnuclear.org]
Sent: Thursday, May 31, 2018 8:11 PM
To: Caverly, Jill <Jill.Caverly@nrc.gov>; Cuadrado-Caraballo, Jose <Jose.Cuadrado-Caraballo@nrc.gov>; jose.cuadrado-caravallo@nrc.gov; Cuadrado-Caraballo, Jose <Jose.Cuadrado-Caraballo@nrc.gov>
Cc: Quintero, Jessie <Jessie.Quintero@nrc.gov>
Subject: [External_Sender] Mr. Cuadrado and Ms. Caverly, please post these two sets of public comments at the www.regulations.gov, Docket ID NRC-2018-0052, as well as elsewhere on the official public comment record for Docket ID NRC-2018-0052

Dear Mr. Cuadrado and Ms. Caverly,

Please post the attached two sets of public comments, as official public comments at the www.regulations.gov Docket ID NRC-2018-0052, as well as everywhere else on the official public comment record for this proceeding.

As you'll see attached below, these public comments include:

1. Public comments that **Beyond Nuclear presented verbally at NRC's HQ meeting** on Wed., April 25th in Rockville, MD. They are entitled "**When It Comes to Highly Radioactive Waste Transportation Risks, We All Live in New Mexico!**" They call for NRC public comment meetings to be held in dozens of states across the U.S. that will be significantly impacted by many thousands of "Mobile Chernobyl" train, truck, and/or barge shipments on rails, roads, and/or waterways, under this scheme. These comments run to four pages in length. See the PDF format version, attached.

2. PUBLIC COMMENTS PREPARED AND SUBMITTED BY KEVIN KAMPS, RADIOACTIVE WASTE SPECIALIST, BEYOND NUCLEAR, IN OPPOSITION TO THE HOLTEC INTERNATIONAL/EDDY-LEA ENERGY ALLIANCE APPLICATION TO CONSTRUCT AND OPERATE A CENTRALIZED INTERIM STORAGE FACILITY FOR 173,600 METRIC TONS OF HIGHLY RADIOACTIVE IRRADIATED NUCLEAR FUEL IN SOUTHEAST NEW MEXICO: Much of the following was delivered verbally at the public comment microphone, albeit in segments due to short 4 to 5 minute time limits, at the NRC environmental scoping meetings held in Roswell (Mon., April 30, 2018), Hobbs (Tues., May 1), and Carlsbad (Thurs., May 3), New Mexico. See the PDF format version, attached.

The reason I am asking you to do this is because your www.regulations.gov site, re: "Docket ID NRC-2018-0052," has not worked for me since around 2:20pm Eastern time on May 18, 2018. I have tried to submit these additional sets of comments nearly a dozen times since, but the system has given back the following error message every single time:

An unexpected error has occurred, please try your operation again. If you are still having problems, please contact us.

[Per my May 22nd email to you:

Dear Ms. Caverly and Mr. Cuadrado,

I would like to call to your attention a problem with www.regulations.gov, re: Docket ID NRC-2018-0052. I have tried for the past four days, since May 18, 2018, to submit comments online via this website. Every single time over the past several days, including about a half-hour ago, when I hit the submit button to submit my comments, I got the following error message back:

An unexpected error has occurred, please try your operation again. If you are still having problems, please contact us.

I have not had the time, due to other responsibilities, to contact [regulations.gov](http://www.regulations.gov). I was hoping that you could see to alerting the folks at www.regulations.gov of the need to fix this problem as soon as possible.

I would humbly request that NRC add as many days onto the July 30, 2018 deadline, to compensate the public for the inaccessibility of the www.regulations.gov site re: Docket ID NRC-2018-0052.

Thank you for addressing this problem as soon as possible. It is most unfortunate that at such a critical time -- the currently final scheduled NRC meetings for environmental scoping public comment -- that one of the major ways for the public to submit comments (via www.regulations.gov) is not even working.

As Susan Schuurman of the Albuquerque Center for Peace and Justice commented at the Carlsbad, NM NRC public meeting, how is the public supposed to be able to trust NRC to ensure highly radioactive waste is contained, safeguarded and secured indefinitely into the future, when the agency cannot even ensure the air conditioning is working properly in the meeting room?!

I would make the same point regarding the current, prolonged inaccessibility of the www.regulations.gov site, re: Docket ID NRC-2018-0052.

Given this inaccessibility presently, please forward this email as official public comment for the record re: Docket ID NRC-2018-0052, however that can happen.]

Thank you for posting these two sets of public comments not only at the www.regulations.gov Docket ID NRC-2018-0052 site, but also everywhere else on the official public comment record for this proceeding.

Please acknowledge receipt of this email. And please provide a receipt that my comments have been posted at the www.regulations.gov Docket ID NRC-2018-0052 site, and also everywhere else on the official public comment record for this proceeding.

Sincerely,

Kevin Kamps, Radioactive Waste Specialist, Beyond Nuclear

--

Kevin Kamps
Radioactive Waste Specialist
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Beyond Nuclear aims to educate and activate the public about the connections between nuclear power and nuclear weapons and the need to abolish both to safeguard our future. Beyond Nuclear advocates for an energy future that is sustainable, benign and democratic.

Attachment 5

On Fri, Jun 1, 2018 at 12:33 PM, Caverly, Jill <Jill.Caverly@nrc.gov> wrote:

Hello Mr. Kamps,

I have forwarded your comments to be processed. My colleague Jessie Quintero did follow up on your email from May 22nd and verified that your comments were pending on Regulations.gov at that time. I have asked NRC's contact for regulations.gov resource to check that it is working today. You can also submit your comments via email to the Holtec scoping address at Holtec-CISFEIS@nrc.gov.

Thank you,

Jill Caverly

Attachment 6

From: Kevin Kamps [<mailto:kevin@beyondnuclear.org>]
Sent: Friday, June 01, 2018 1:20 PM
To: Caverly, Jill <Jill.Caverly@nrc.gov>
Cc: Cuadrado-Caraballo, Jose <Jose.Cuadrado-Caraballo@nrc.gov>; jose.cuadrado-caravallo@nrc.gov;
Quintero, Jessie <Jessie.Quintero@nrc.gov>
Subject: [External_Sender] Re: Mr. Cuadrado and Ms. Caverly, please post these two sets of public comments at the www.regulations.gov, Docket ID NRC-2018-0052, as well as elsewhere on the official public comment record for Docket ID NRC-2018-0052

Ms. Caverly,

Yes, Jessie Quintero did email me, twice, on May 22nd. I was aware of that. But this has not led to repair of your dysfunctional [regulations.gov](http://www.regulations.gov) site re: the Holtec CISF docket, which was my primary and urgent request. As I informed you yesterday, your site is still not working. It has not worked since May 18th. That's a remarkable two weeks.

One of Jessie Quintero's emails on May 22nd informed me that several of my comments had posted successfully to the site on May 18th. But I had already known that. I had requested, and received, emailed receipts for those successfully posted comments. Then your site simply quit working. And it has not worked since. I have tried a dozen times to post comments to the site, between May 18th and May 31st, unsuccessfully, because the site is not functioning.

It goes without saying that this is unacceptable.

I also knew about the email option for submitting comments. Thanks to the request made by Joni Arends of CCNS at the Hobbs public comment meeting, this option was established. Why it should be necessary in the year 2018 to have to ask NRC to make an email option available, I do not understand. Please note that the reason that Joni Arends made that request in the first place, as she explained at the microphone, was because your [regulations.gov](http://www.regulations.gov) site was proving difficult for people who had spoken to her about it. There was obviously already problems being experienced a full month ago, by the time of the Hobbs meeting.

That there should be this much difficulty with the [regulations.gov](http://www.regulations.gov) site, in the year 2018, I also do not understand. Especially re: the May 18-May 31 dysfunctionality, despite my informing you of the problem as early as May 22nd. Why has NRC not fixed the problem yet, two weeks since it began, and a week and a half after I informed you of it?

The existence of the email option is beside the point. The error message at the [regulations.gov](http://www.regulations.gov) site does not announce to, or inform, readers/blocked commenters that there is an email option. Nor does it mention the snail mail option. Public commenters who are not in the know would just be stuck. Unless they were willing to invest the additional time -- in addition to the time they had just wasted, unsuccessfully trying to make comments on this NRC docket -- to contact [regulations.gov](http://www.regulations.gov), to seek a repair to the site.

Why does NRC not consider this a major problem, that one of its primary public comment mechanisms has not worked, since May 18th? If and when NRC repairs this problem, will another day of public comment be added to the current July 30th deadline, to compensate for every day that the regulations.gov site has not worked?

Thank you in advance for answering my questions as soon as possible, and for repairing your broken regulations.gov site as soon as possible.

Sincerely,

Kevin Kamps, Beyond Nuclear

Attachment 7

From: "Caverly, Jill" <Jill.Caverly@nrc.gov>
Date: June 11, 2018 at 2:37:49 PM CDT
To: 'Kevin Kamps' <kevin@beyondnuclear.org>
Cc: "Cuadrado-Caraballo, Jose" <Jose.Cuadrado-Caraballo@nrc.gov>, "jose.cuadrado-caravallo@nrc.gov" <jose.cuadrado-caravallo@nrc.gov>, "Quintero, Jessie" <Jessie.Quintero@nrc.gov>

Subject: RE: Re: Mr. Cuadrado and Ms. Caverly, please post these two sets of public comments at the www.regulations.gov, Docket ID NRC-2018-0052, as well as elsewhere on the official public comment record for Docket ID NRC-2018-0052

Hello Mr. Kamps,

I have confirmed that [regulations.gov](http://www.regulations.gov) did receive comments and was working during the time in which you were having difficulties submitting your comments. I can't explain why you were unable to see that your comments were successfully uploaded; perhaps your computer settings were causing the issues. Thank you for the information and for commenting.

Jill Caverly

McCloskey, Bridin

From: Diane Curran <dcurran@harmoncurran.com>
Sent: Wednesday, June 13, 2018 6:09 PM
To: Vietti-Cook, Annette
Cc: Cuadrado-Caraballo, Jose; Caverly, Jill; Quintero, Jessie; 'Kevin Kamps (kevin@beyondnuclear.org)'; Terry Lodge; Leona Morgan (leonamorgan@icloud.com); 'Tim Judson (timj@nirs.org)'; 'Diane D'Arrigo (dianed@nirs.org)'; Joni Arends (jarends@nuclearactive.org)
Subject: [External_Sender] Letter regarding Holtec EIS commenting process, Docket No. 72-1051
Attachments: 2018.06.13 Letter from Environmental Organizations to Annette Vietti-Cook.pdf

Dear Ms. Vietti-Cook,

Attached please find a letter from five environmental organizations raising concerns regarding the NRC's defective process for soliciting comments on the Draft Environmental Impact Statement for the proposed Holtec Centralized Interim Storage facility, and asking for an extension of the comment period. Please share it with the Commissioners.

Thank you,

Diane Curran

Diane Curran
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