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LAW

Turner Environmental Law Clinic

April 7, 2020

VIA ELECTRONIC FILING

Commissioner Kristine Svinicki, Chair
Commissioner Jeff Baran
Commissioner Annie Caputo
Commissioner David A. Wright
U.S. Nuclear Regulatory Commission

**Re: *Holtec International* (HI-STORE Consolidated Interim Storage Facility),
Docket No. 72-1051**

On behalf of Beyond Nuclear, Inc., we write to alert you of a recent statement by the U.S. Nuclear Regulatory Commission (“NRC”) Staff in the Draft Environmental Impact Statement for the Holtec International’s License Application for a Consolidated Interim Storage Facility for Spent Nuclear Fuel and High Level Waste (NUREG-2237, March 2020) (“DEIS”), which bears on the legal issues now before you in this proceeding on appeal of LBP-19-04, 89 NRC __ (May 7, 2019).

In LBP-19-04, the Atomic Safety and Licensing Board (“ASLB”) stated:

If Congress decides to amend the [Nuclear Waste Policy Act] to allow [the Department of Energy] to take title to spent nuclear fuel before a national nuclear waste repository becomes operational, the only difference would be that DOE could then lawfully contract with Holtec to store the same spent fuel that presently belongs to the nuclear power plant owners. *The NRC Staff assures us that it is reviewing Holtec’s application in light of both possibilities: ‘[T]he Staff bases its safety and environmental reviews on the application as presented, which seeks a license on the basis that either DOE or private entities may hold title to the waste.’*

Id., slip op. at 34 (emphasis added) (cited in Beyond Nuclear’s Brief on Appeal of LBP-19-04 at 6 (June 3, 2019)). In the DEIS, however, the NRC Staff refuses to provide “a detailed evaluation” of the environmental impacts of an action related to the storage of spent fuel at the proposed Holtec facility, *i.e.*, disposal of Greater-Than-Class-C (“GTCC”) waste at the Waste Control Specialist (“WCS”) Low Level Radioactive Waste disposal facility in Andrews, Texas, on the ground that it is not “feasible” until Congress passes legislation:

[B]ecause disposal of GTCC at WCS would require completion of [an NRC rulemaking] *and actions by DOE and Congress*, a detailed evaluation of this reasonably foreseeable future action is *not feasible at this time* but is included here for completeness.

NRC Commissioners

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Id. at 5-5 (emphasis added). This statement in the DEIS runs counter to the NRC Staff's assurances, relied upon by the ASLB in LBP-19-04, that the NRC Staff can ably assess the environmental and safety impacts of DOE ownership of spent nuclear fuel at the proposed Holtec facility, when such ownership would also require actions by both DOE and Congress (i.e. amending the Nuclear Waste Policy Act).

Sincerely,

[*Electronically signed by*]

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

In the Matter of:)
)
Holtec International) Docket No. 72-1051
)
(HI-STORE Consolidated Interim Storage Facility)

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2020, I posted a copy of **BEYOND NUCLEAR'S LETTER TO THE NRC COMMISSIONERS RE HOLTEC INTERNATIONAL (HI-STORE CONSOLIDATED INTERIM STORAGE FACILITY), DOCKET NO. 72-1051** on the NRC's Electronic Information Exchange System.

___/signed electronically by/___
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