

From: Kevin Kamps <kevin@beyondnuclear.org>
Sent: Wednesday, October 14, 2020 6:16 PM
To: WCS_CISFEIS Resource
Subject: [External_Sender] Beyond Nuclear's 13th set of public comments, re: Docket ID NRC-2016-0231, and report number NUREG-2239, NRC's ISP/WCS CISF DEIS, re: woefully inadequate, to nearly nonexistent, treatment of highly radioactive waste transportation ris...

Submitted via: <WCS_CISF_EIS@nrc.gov>

Dear NRC Staff,

We submit these comments on behalf of our members and supporters, not only in New Mexico and Texas, near the targeted ISP/WCS CISF site, but across both of these states, and the rest of the country, along road, rail, and waterway routes that would be used for high risk, highly radioactive waste shipments to ISP/WCS's CISF, as well as to Yucca Mountain, Nevada, on Western Shoshone land -- wrongly and illegally assumed by ISP/WCS, as well as by NRC, to someday (or some decade, or some century) become a permanent disposal repository. This unnecessarily repeated, multiple legged, cross-continental transport of highly radioactive waste, is another significant aspect of the EJ (Environmental Justice) burden associated with this ISP/WCS CISF scheme.

The following subject matter has gotten little to no attention in NRC's ISP/WCS CISF DEIS, a far cry from NEPA's legally binding "hard look" requirement: woefully inadequate, to nearly nonexistent, treatment of highly radioactive waste transportation risks, including: failure to identify shipping routes associated with 127 of 131 atomic reactors in the U.S.; failure to address widespread QA violations associated with design and manufacture of containers for irradiated nuclear fuel shipping and storage; and a fatally flawed EJ analysis.

First off, our comment has to do with transportation. We protest NRC's woefully inadequate, to nearly nonexistent, treatment of highly radioactive waste transportation risks. This violates the long-established legal requirement under the National Environmental Policy Act (NEPA) that NRC must take a "hard look" at the ISP/WCS CISF proposal, including its inextricably interlinked, high-risk, high-level radioactive waste transportation component, impacting most states in the lower 48. The transport route maps that the NRC cite in its DEIS done by the Department of Energy in 2008, the final supplemental EIS (FSEIS) on the Yucca Mountain, Nevada dump scheme, targeting Western Shoshone lands, are extensive. The State of Nevada in 2017 made them much more user friendly, thanks to the work of Dr. Fred Dilger. (See Dr. Dilger's work posted here, under the year 2017: <<http://www.state.nv.us/nucwaste/trans.htm>>.)

In this ISP CISF DEIS, NRC has completely failed to make these highly likely irradiated nuclear fuel transport routes transparent to the public. Also, for its part, ISP/WCS's Environmental Report (ER) sole transport route map (Figure 2.6-1, Transportation Routes, Revision 2, Chapter 2, Page 2-78) accounts only for routes from four of 131 reactors in this country, specifically three in San Onofre, California and one at Maine Yankee. That's not acceptable. What about the other

127 atomic reactors in the U.S., including 94 still operating, 35 permanently shutdown, and two under construction in Georgia (Vogtle Units 3 and 4)?! (See: <http://www.beyondnuclear.org/reactors-are-closing/>.)

But NRC's CISF DEIS did not even include this sole inadequate map from ISP's ER.

NRC's DEIS and ISP/WCS's ER essentially exclude the high risks of transportation and are not even being transparent about the transportation routes. This represents illegal segmentation, the dividing up of a major federal action into smaller parts so that the proposal doesn't seem so significant or impactful after all. This is a violation of NEPA, as long ruled by the federal courts. There is no magic wand to simply teleport the wastes out to West Texas, 0.37 miles from the border with New Mexico, near the majority LatinX city of Eunice.

Our next comment has to do with whistleblower revelations about irradiated nuclear fuel storage and shipment container quality assurance (QA) violations. Although the containers in question are Holtec containers, supposedly not to be used at ISP/WCS's CISF, the revelations nonetheless raise very serious red flags, begging the question — are there widespread QA violations with the containers to be used at ISP/WCS's CISF, as well, such as NAC containers and Transnuclear containers, and others? Certainly past problems with NAC containers, such as those documented in Dr. Marvin Resnikoff's 1987 book *The Next Nuclear Gamble*, lends further credence to the concern that NAC containers, that would be used at ISP's CISF, have design, fabrication, and/or operational QA violations. So too does the widespread problem of Areva containers in France, suffering hazardous external contamination, as documented by World Information Service on Energy-Paris, in the mid- to late-1990s. So too have the widespread problems associated with on-site dry cask storage at reactors across the U.S., as documented here: <http://archives.nirs.us/radwaste/atreactorstorage/drycaskfactsheet07152004.pdf>.

Why, when Beyond Nuclear, and a large number of other environmental groups and concerned citizens, bring these and similar concerns to NRC's attention, does the agency consistently ignore us? This has certainly been the case in the NRC's ISP/WCS environmental scoping stage, as reflected in NRC's current woefully inadequate ISP/WCS DEIS, that violates NEPA.

Whistleblowers, namely Oscar Shirani at Commonwealth Edison/Exelon, and Dr. Ross Landsman at NRC Region III, first revealed widespread quality assurance violations by the licensee Holtec in the design and fabrication of its containers in the early 2000s. See a summary of these QA violation allegations, here: <http://www.beyondnuclear.org/centralized-storage/2017/4/5/summary-of-oscar-shiranis-allegations-of-quality-assurance-v.html>.

Neither Holtec nor NRC have rectified this problem much or at all ever since, not in the past two decades. Thus, Shirani questioned the structural integrity of the Holtec containers sitting still, going zero miles per hour, let alone going 60 miles per hour or faster down the railroad tracks and subject to the extreme forces of severe accidents. Dr. Landsman compared NRC's decision making to that of NASA's which led to space shuttles hitting the ground.

Compounding the QA violation problem even worse, Holtec's CEO, Krishna Singh, also attempted to bribe Shirani and Landsman into silence about these quality assurance violations.

They refused and rejected his bribe offer, and continued to blow the whistle. And we have to point out that NRC, during the environmental scoping phase re: Holtec's CISF, treated our raising this bribery comment as an allegation. They took four months to supposedly investigate it. They came back with a single page response, that essentially said, "Bribery is not our department. We suggest you take it up with the Department of Justice." To put it mildly, that is not an acceptable response from the NRC. NRC's passivity in the face of CEOs of its licensees breaking laws is most alarming. Bribery in order to secure irradiated nuclear fuel storage and/or transport contracts, as by Holtec's CEO Krishna Singh, is a very safety significant matter. How NRC could judge otherwise is outrageous, astounding, mind boggling, and most alarming. And yet, that is NRC's position, and policy. NRC is an agency that could not be much more captured by the industry it is supposed to regulate than it already is. To all of our peril.

Again, we have to wonder, are there widespread QA violations associated with the design, manufacture, and use of containers that would be used to ship irradiated nuclear fuel to, and/or store it at, the ISP/WCS CISF? After all, NRC's inability, or unwillingness, to enforce QA safety standards vis-a-vis Holtec containers, for the past two decades, begs the question, is the QA violation problem present across industry, including containers designed and manufactured by other companies, such as Nuclear Assurance Corporation (NAC), Orano/Areva, etc.?

Our final subject matter of comment has to do with environmental justice (EJ). We would like to highlight a really powerful and valuable map, done by Deborah Reed, a cartographer based in Santa Fe, NM. Its title is "Water, Air, and Land: A Sacred Trust." Here is a link to it, posted online: http://static1.1.sqspcdn.com/static/f/356082/28292760/1588368272923/2020-ThreatsMap_11x17-v2.pdf?token=oopcheAXONZota6%2Bd%2FqgHb87tEM%3D.

It's a map of New Mexico showing the nuclear, and fossil fuel, and other hazardous industries, that have long polluted and contaminated the "Land of Enchantment," and still do, and it is nightmarish. However, the national so-called "low" level radioactive waste dump at WCS, TX, as well as its hazardous material contamination, and also the ISP/WCS CISF, are depicted on the map, hugging the NM state line within, at most, just a few miles of Eunice, NM. This is most appropriate that WCS be included in this map otherwise focused only on NM, because that imaginary dotted line known as the NM/TX state border does not protect the majority LatinX residents of Eunice, NM — the nearest city, much closer than even Andrews, TX — from the radioactive and chemically toxic hazards emanating from the ISP/WCS site. After all, ISP/WCS's CISF would be just 0.37 miles from the NM state line. Surface and groundwater flow paths from WCS actually cross the state line into NM, as well.

And certainly the Ogallala Aquifer, which NRC's ISP/WCS CISF public comment call-in session introductory slideshow acknowledges comes within a mile of the CISF site, also extends under NM (not to mention another six High Plains States to the north of TX and NM, all the way to Oglala Lakota territory in South Dakota, after which it is named). ISP's potential eventual contamination of the Ogallala Aquifer is another environmental, health, safety, and national security issue that NRC has neglected in its CISF DEIS. After all, the Ogallala Aquifer, the largest in all of North America, provides vital drinking and irrigation water for eight High Plains States, and numerous Native American Nations, including the Oglala Lakota, to name but one example.

It should be pointed out that most to all of our EJ comments can also be taken as cumulative impacts comments. NRC has neither addressed the EJ, nor the cumulative impacts, aspects of our comments, but must do so in the Final EIS, or be in violation of NEPA.

Thus, ISP/WCS's CISF is another, major, EJ burden on NM — a significant issue that NRC's ISP/WCS CISF has done woefully inadequate analysis of. Just because ISP is located but 0.37 miles from NM, does not mean NRC can ignore the EJ, the cumulative, the environmental, safety, security, and health impacts on NM, from ISP's CISF scheme.

The nuclear history of New Mexico dates back to the founding of Los Alamos National Lab in 1943. The disproportionate nuclear risk and pollution burden on the majority minority state that is New Mexico continues right up to the present, as depicted on the "Sacred Trust" map by Deborah Reade linked above. NRC must address these historic, current, and reasonably foreseeable EJ (and cumulative) impacts, as clearly documented on this map.

That has been the trick that NRC has played in both CISF EIS proceedings (both the Holtec, NM as well as the ISP, TX EIS proceedings), in order to find no environmental justice impacts — the local "host" communities very close to the targeted CISF sites were simply compared to the rest of New Mexico as a whole, or the rest of Texas as a whole. But that, of course, is deceptive, evasive trickery by NRC. The high percentage of the Native American and LatinX population in the State of NM should be compared to the rest of the country as a whole. The NMED (New Mexico Environment Department) made this argument very succinctly in its September 22, 2020 written comments in the Holtec DEIS proceeding, pointing out that NM's Indigenous and LatinX residents comprise more than 60% of the state's population, multiple times the U.S. population as a whole, by way of comparison.

And Public Citizen's Texas Office director Adrian Shelley has provided verbal comments during a call-in session in this ISP DEIS proceeding, clearly documenting the EJ burden on LatinX populations across West Texas, that this ISP CISF scheme would cause, along the rail shipping routes that would be used. Shelley's comments updated extensive comments submitted by Public Citizen and SEED Coalition in 2018 during NRC's environmental scoping stage on the ISP CISF scheme, but again, NRC has largely to entirely ignored such comments, right up to the present, in its DEIS. Why does NRC behave this way, in violation of NEPA?!

One example of an EJ analysis NRC should do is in regards to the irradiated nuclear fuel containers that could be shipped out to the New Mexico and/or Texas CISFs, from the State of Vermont, currently stored at Vermont Yankee. Similarly, other New England irradiated nuclear fuel containers — as from Maine Yankee, Seabrook NH, Pilgrim and Yankee Rowe MA, could be shipped out to one or both CISFs, in NM and/or TX. In fact, the very companies proposing these CISFs in the Permian Basin, are now the owners of certain of these decommissioning nuclear power plant sites, and the irradiated nuclear fuel stored on-site at them: Vermont Yankee (NorthStar, which includes Orano/Areva and WCS, the partners that comprise Interim Storage Partners); and Pilgrim MA (Holtec). (Holtec has also taken ownership of nuclear power plant sites, and the irradiated nuclear fuel stored there, at the Mid-Atlantic/Northeast Oyster Creek NJ nuclear power plant; Holtec is seeking such ownership at the Indian Point nuclear power plant

near New York City, NY; and Holtec is seeking such ownership at the West Michigan reactor sites, Palisades and Big Rock Point.)

But of course, both Holtec and ISP, as revealed on the sole, woefully inadequate transport route map each company included in their Environmental Reports, nonetheless documented irradiated nuclear fuel from Maine Yankee, as well, to be shipped to the CISFs in the Permian Basin. So too, the irradiated nuclear fuel from three reactors at San Onofre, CA.

So, NRC should do an EJ analysis comparing the socio-economic demographics of the CISF "host" communities, such as Eunice, NM, to the New England "host" communities near Vermont Yankee, Pilgrim MA, Maine Yankee, as well as the southern CA "host" community near San Onofre. NRC should do an EJ analytical comparison of the socio-economic demographics of the State of NM, and the State of TX, to the States of VT, MA, and ME, as well as southern CA near San Onofre. Those are the kind of EJ analytical comparisons that need to be done. Instead, NRC has done acrobatics in order to hide the truth, regarding the clear environmental injustice and radioactive racism represented by the ISP and Holtec CISF schemes.

Re: Figure 2.6-1, Transportation Routes, Revision 2, Chapter 2, Page 2-78, in ISP's ER, it also reveals another EJ (and cumulative impacts) issue that NRC has neglected to address. The map shows a blue transport route labeled "Maine Yankee to WCS." It should be noted that a large number of reactors to the east of WCS, TX -- not just Maine Yankee -- would use this route. Why ISP ER did not include these other reactors, is not explained. Nor has NRC required ISP to make such basic information transparent, nor has NRC provided such based information directly itself, as in its DEIS.

In addition to the "Maine Yankee to WCS" route depicted in blue, other routes would be used to haul irradiated nuclear fuel from reactors east of WCS, TX, to the CISF. It should be noted that 90% of reactors, and irradiated nuclear fuel, are located in the eastern half of the country, to the east of WCS, TX. 75% of reactors and irradiated nuclear fuel are located to the east of the Mississippi River.

A light green transport route in Fig. 2.6-1 is labeled "WCS to Yucca Mountain." Presumably, ISP is indicating that up to 40,000 metric tons of irradiated nuclear fuel would travel this "WCS to Yucca Mountain" transport route, depicted in light green, for permanent disposal in a geologic repository at Yucca Mountain, Nevada. In other comments submitted by Beyond Nuclear, and others groups and individuals in this public comment proceeding, it has been communicated a large number of times, clearly to NRC, that the agency, and ISP, cannot assume Yucca Mountain will become the permanent repository. As Yucca Mountain is located on Western Shoshone land, that would violate the Treaty of Ruby Valley of 1863, signed by the U.S. government. It is the highest law of the land, equal in stature to the U.S. Constitution itself.

The Yucca dump would also represent a huge EJ violation. After all, nearly a thousand full-scale nuclear weapons detonations were conducted at the adjacent Nevada Test Site (Nevada National Security Site), by the U.S. and U.K. governments, from 1951 to 1992. 128 of those "tests" were above ground. A third of the underground tests, after the early 1960s to 1992, have been documented as leaking hazardous radioactivity to the surface environment. Sub-critical "tests"

involving plutonium continue to the present. To add highly radioactive waste dumping in the State that has suffered so much downwind from the NTS/NNSS would represent a very large EJ impact, as well as a very large cumulative impact, on the Western Shoshone, other Nevadans, and those further downstream and downwind, as in Utah, California, and beyond.

The dark green line on Fig. 2.6-1 shows the overlap of the light green "WCS to Yucca Mountain," and the blue "Maine Yankee to WCS," routes. The dark green overlap extends across southeastern NM, the width of TX, and the height of OK. What this means is, all of the communities on the dark green line, in NM, TX, and OK, would be hit coming and going by ISP's irradiated nuclear fuel transports. Coming, inbound from the east, for CISF storage in extreme West Texas, on the NM border near Eunice. Then again going, outbound, to Yucca Mountain, NV, for permanent disposal. As has been mentioned, NM itself is a majority minority state -- more than 60% of its residents are LatinX or Indigenous. Eunice, NM itself -- through which every single inbound and outbound shipment would pass, en route to or from ISP -- is itself majority LatinX.

And as Public Citizen's Texas Office director has verbally commented in this very proceeding, the transport routes coming and going in West Texas, and elsewhere in TX, have majority LatinX communities living along them, sometimes vast majority LatinX communities.

And of course, Oklahoma is officially called "Native America" by its own state government, right down to on its automobile license plates. A large number of Native American communities call Oklahoma home. Recently the U.S. Supreme Court ruled that most of eastern OK is an Indian reservation, belonging to the Muscogee (Creek) Nation.

Also in OK are majority African American communities, as in the Greenwood District of Tulsa, OK, site of the infamous 1921 Tulsa Race Massacre, perpetrated by Whites against Blacks.

So why has NRC done little to no EJ and cumulative impacts analyses of these double whammy shipments on the low income and/or people of color (BIPOC, Black, Indigenous, People of Color) communities, to be hit coming and going, by ISP's high-risk irradiated nuclear fuel shipments?

The light green "WCS to Yucca Mountain" transport route then proceeds westward, from OK, to Yucca Mountain, NV, through the states of KS, CO, UT, and NV. Yet again, these very states are home to significant Indigenous, as well as LatinX and other BIPOC communities. Why has NRC done little to no EJ, nor cumulative impacts, analyses on these questions?

The State of Nevada Agency for Nuclear Projects has, in the context of Yucca Mountain-bound shipments. See:

- - [Measures of Community Impact for The Transportation of Hazardous Materials: The Case of Indian Tribes and High-Level Nuclear Waste -- Conference Paper - Waste Management 2005](#) - Fred Dilger, Robert Halstead, James David Ballard (pdf-1.24M)>.

And, as has been mentioned above, the State of Nevada Agency for Nuclear Projects has also published the following route identification and shipment number analyses, based on the same 2008 DOE FSEIS for Yucca that NRC cites, in passing, in its own ISP CISF DEIS:

2017 - - - - -

- *Nevada Agency for Nuclear Projects* - [Representative Transportation Routes to Yucca Mountain and Transportation Impacts \(Cask Shipments by State\)](#) - Fred Dilger PhD
- *Nevada Agency for Nuclear Projects* - [Cities Potentially Affected by Shipments to Yucca Mountain](#) (pdf-2.45M)
- *Nevada Agency for Nuclear Projects* - [States Potentially Affected by Shipments to Yucca Mountain with Congressional Districts](#) (pdf-7.05M)
- *Nevada Agency for Nuclear Projects* - [Congressional Districts Potentially Affected by Shipments to Yucca Mountain - 115th Congress](#) (pdf-882K)

It must be pointed out that the further from the American Southwest the origin, the more similar to identical the transport routes will be, regardless of whether bound for the CISFs in the Permian Basin, or for Yucca Mountain, NV.

Since all 131 reactor sites are clearly known, and the major transport route options between them and the ISP CISF are also clearly known, why has NRC not analyzed and disclosed them to the public? After all, DOE and the State of Nevada Agency for Nuclear Projects were able to do so. NRC's DEIS violates NEPA in these regards. Is NRC trying to hide the truth from the impacted public?!

It must also be pointed out that, as Robert Alvarez has testified in the ISP licensing proceeding before the NRC's ASLB, with the NRC staff as a participating party, that the outbound shipments from the ISP/WCS CISF will not number 3,400, like the inbound shipments, but rather will number in the tens of thousands. That's because the 3,400 giant rail-sized inbound containers will have to be repackaged into tens of thousands of significantly smaller TADs (Transport, Aging, and Disposal) containers, required by DOE for acceptance at the Yucca Mountain repository.

Shipping tens of thousands of TADs from WCS to Yucca means a significantly increased probability of severe accidents during transport, as compared to the 3,400 shipments NRC has shallowly assumed, by yet again ignoring Alvarez's testimony.

Here are links to Alvarez's testimony, posted online, testimony that NRC has already had in its possession for years, but has simply chosen to ignore:

<http://static1.1.sqspcdn.com/static/f/356082/28034884/1543538132387/11+13+18+Alvarez+report+COMPLET.pdf?token=64im5pl3ZCZOVehmRU%2FTrCrvI7I%3D>

<http://static1.1.sqspcdn.com/static/f/356082/28207407/1571935580287/10+23+19+Alvarez+October+23+Memo+Final.pdf?token=Gc91u%2Fsfy%2BgrdK8KLpbnGiaWcI%3D>

Please address and rectify your woefully inadequate "hard look" under NEPA, re: this health-, safety-, and environmentally-significant, as well as legally-binding, subject matter above.

And please acknowledge your receipt of these comments, and confirm their inclusion as official public comments in the record of this docket.

Thank you.

Sincerely,

Kay Drey, President, Board of Directors, Beyond Nuclear

and

Kevin Kamps, Radioactive Waste Specialist, Beyond Nuclear

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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.

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