

UNITED STATES COURT OF APPEALS

DISTRICT OF COLUMBIA CIRCUIT

333 Constitution Avenue, NW
Washington, DC 20001-2866
Phone: 202-216-7000 | Facsimile: 202-219-8530

DOCKETING STATEMENT

Administrative Agency Review Proceedings (To be completed by appellant/petitioner)

- 1. CASE NO. 21-1056 2. DATE DOCKETED: Feb. 10, 2021
3. CASE NAME (lead parties only) Beyond Nuclear v. U.S. Nuclear Regulatory Commission
4. TYPE OF CASE: [X] Review [ ] Appeal [ ] Enforcement [ ] Complaint [ ] Tax Court
5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? [ ] Yes [X] No
6. CASE INFORMATION:
a. Identify agency whose order is to be reviewed: U.S. Nuclear Regulatory Commission
b. Give agency docket or order number(s): NRC-72-1050
c. Give date(s) of order(s) October 29, 2018, December 17, 2020, and September 17, 2021
d. Has a request for rehearing or reconsideration been filed at the agency? [ ] Yes [X] No
e. Identify the basis of appellant's/petitioner's claim of standing. See D.C. Cir. Rule 15(c)(2): See Addendum.
f. Are any other cases involving the same underlying agency order pending in this Court or any other
g. Are any other caess, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve substantially the same issues as the instant case presents?
h. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative for dispute resolution?

Signature /s/ Diane Curran Date Nov. 8, 2021
Name of Party (Print) Beyond Nuclear
Name of Counsel for Appellant/Petitioner (Print) Diane Curran
Address Harmon, Curran, Spielberg & Eisenberg, L.L.P., 1725 DeSales St. N.W. Suite 500, Washington, D.C. 20036
E-Mail dcurran@harmoncurran.com Phone ( 240 ) 393 - 9285 Fax ( 404 ) 727 - 7851

ATTACH A CERTIFICATE OF SERVICE

Note: If counsel for any other party believes that the information submitted is inaccurate or incomplete, counsel may so advise the Clerk within 7 calendar days by letter, with copies to all other parties, specifically referring to the challenged statement. An original and three copies of such letter should be submitted.

**Addendum to Petitioner’s Docketing Statement for**  
**Beyond Nuclear v. NRC, No. 21-1056**  
**(cons. with No. 20-1048, 21-1055, and 21-1179)**

**Question 6(e): “Identify the basis of appellant’s/petitioner’s claim of standing.”**

To establish standing in a case brought under the Hobbs Act, 28 U.S.C. § 2344, a party filing suit in federal court must demonstrate both associational and prudential standing. *Nuclear Energy Inst., Inc. v. EPA*, 373 F.3d 1251, 1278 (D.C. Cir. 2004) (citing *Hunt v. Wash. State Apple Adver. Comm’n*, 432 U.S. 333, 343 (1977); *Reyblatt v. U.S. Nuclear Regulatory Comm’n*, 105 F.3d 715, 720 (D.C. Cir. 1997)). As demonstrated by the attached declarations of its members<sup>1</sup> and explained below, Petitioner Beyond Nuclear, Inc. (“Beyond Nuclear”) has both types of standing to challenge final orders issued by the U.S. Nuclear Regulatory Commission (“NRC”) in the Interim Storage Partners LLC (“ISP”) licensing proceeding for the construction and operation of a facility for storage of nuclear waste (often described as “spent nuclear fuel”) in Andrews County, Texas (the “ISP Facility”).

**A. Associational Standing**

Beyond Nuclear has associational standing to bring this petition for review as a representative of its members. *See Nuclear Energy Inst.*, 373 F.3d at 1265.

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<sup>1</sup> *See* Declaration of Rose Gardner (Ex. 1); Declaration of D.K. Boyd (Ex. 2); Declaration of Anita Ireland (Ex. 3); Declaration of Robert Boyd (Ex. 4).

“An association has standing to bring suit on behalf of its members when: (1) ‘its members would otherwise have standing to sue in their own right;’ (2) ‘the interests it seeks to protect are germane to the organization’s purpose;’ and (3) ‘neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.’” *Center for Sustainable Econ. v. Jewell*, 779 F.3d 588, 596 (D.C. Cir. 2015) (quoting *Hunt*, 432 U.S. at 343).

1. Beyond Nuclear’s members have standing in their own right.

As demonstrated by the attached declarations, Beyond Nuclear’s members have standing to sue in their own right. Each demonstrates “the irreducible constitutional minimum” for standing: injury-in-fact, causation, and redressability. *Nuclear Energy Inst.*, 373 F.3d at 1265 (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992)). The injuries to Beyond Nuclear’s members arise from (i) their proximity to the significant quantity of radioactive material to be stored at the proposed ISP Facility, (ii) their exposure to normal and accidental doses of radiation during transportation of spent fuel to the ISP Facility, and (iii) harm to their property values and interests.

First, as demonstrated in the attached declarations, Beyond Nuclear establishes standing by virtue of its members’ proximity to a significant source of radiation. *See, e.g., Nuclear Energy Inst.*, 373 F.3d at 1266 (finding standing for an environmental organization to challenge nuclear waste disposal facility licensing

because one of its members “lives adjacent to the land where the Government plans to bury 70,000 metric tons of radioactive waste—a sufficient harm in and of itself”). Spent nuclear fuel is and will remain highly radioactive and dangerous to humans for hundreds of thousands of years. *Id.* at 1267. Here, ISP proposes to store 40,000 metric tons of extremely dangerous and long-lived radioactive waste—a figure that represents approximately half the amount of nuclear waste in the United States—adjacent to where Beyond Nuclear’s members live, work, and own property. Beyond Nuclear’s members Anita Ireland and Rose Gardner live in Eunice, New Mexico, both within ten miles of the ISP Facility, and Beyond Nuclear’s members D.K. Boyd and Robert Boyd raise cattle on a ranch only four miles from the ISP Facility at its nearest point. *See* Beyond Nuclear’s Standing Declarations, Exhibits 1 – 4.

Second, Beyond Nuclear establishes standing by virtue of the radiological injuries to its members who live, work, and travel on or along routes on which ISP plans to transport spent nuclear fuel. As demonstrated in the attached declarations, these injuries include radiological exposure received during normal transportation operations, radiological exposure received during a transportation accident, and limitation on the right to travel. Such injuries from a licensed activity need not be large to establish standing: even minor radiological exposure, within regulatory limits, can be sufficient. *Duke Power Co. v. Carolina Env’tl. Study Group*, 438 U.S.

59, 74 (1978) (“[T]he emission of non-natural radiation into appellees’ environment would also seem a direct and present injury, given our generalized concern about exposure to radiation and the apprehension flowing from uncertainty about the health and genetic consequences of even small emissions like those concededly emitted by nuclear power plants.”).

Third, as demonstrated in the attached declarations, Beyond Nuclear establishes standing by virtue of the proposed facility’s adverse impacts to its members’ property values and interests. Beyond Nuclear’s members own homes, raise cattle, and hold mineral and oil and gas interests on land located in close proximity to the ISP Facility. *See* Beyond Nuclear’s Standing Declarations, Exhibits 1 – 4. And, reduction in property values due to proximity to spent fuel storage is a sufficient injury to establish standing. *Kelley v. Selin*, 42 F.3d 1501, 1509–10 (6th Cir. 1995) (finding that spent fuel storage near petitioners “has the potential to interrupt enjoyment of their lakefront property and to diminish its value”).

These injuries to the health, safety, and property interests of Beyond Nuclear’s members are directly traceable to the actions challenged here: NRC’s conduct of the ISP licensing proceeding, issuance of ISP’s requested license, and determination that the Nuclear Waste Policy Act of 1982 (“NWPA”) and Administrative Procedure Act (“APA”) posed no obstacle to the conduct of that

licensing proceeding or to licensing the ISP Facility. These injuries would be redressed by this Court reviewing, reversing, and vacating the Commission Order issued on October 29, 2018; Memorandum and Order CLI-20-14, issued on December 17, 2020; and the license issued to ISP to build and operate the WCS Consolidated Interim Storage Facility, published at 86 Fed. Reg. 51,926 (Sept. 17, 2021).

2. The interests Beyond Nuclear seeks to protect are germane to Beyond Nuclear's purposes.

The interests Beyond Nuclear seeks to protect are germane to its purposes: Beyond Nuclear is a nonprofit, nonpartisan membership organization that (a) aims to educate and activate the public about the connections between nuclear power and nuclear weapons and the need to abolish both to protect public health and safety, prevent environmental harms, and safeguard our future; and (b) advocates for an end to the production of nuclear waste and for securing the existing reactor waste in hardened on-site storage until it can be permanently disposed of in a safe, sound, and suitable underground repository.

3. Individual participation by Beyond Nuclear's members is not required.

Finally, “neither the claim asserted nor the relief requested” requires participation in this lawsuit by an individual member of Beyond Nuclear. *Nuclear Energy Inst.*, 373 F.3d at 1265.

Therefore, because Beyond Nuclear satisfies the three-part test set forth in *Center for Sustainable Econ.*, 779 F.3d at 596, it has the associational standing required to bring a case in federal court under the Hobbs Act. *See also Nuclear Energy Inst.*, 373 F.3d at 1278-79.

### **B. Prudential Standing**

To establish prudential standing, a party's "grievance must arguably fall within the zone of interests protected or regulated by the statutory provision or constitutional guarantee invoked in the suit." *Nuclear Energy Inst.*, 373 F.3d at 1266 (quoting *Bennett v. Spear*, 520 U.S. 154, 162 (1997)). Beyond Nuclear has prudential standing to bring this petition for review. By considering a license application that contemplates federal ownership of spent nuclear fuel in violation of the NWPA, and by issuing a license with such a provision, the NRC infringed upon the zone of interests protected by the NWPA and APA. *See id.*

Section 111 of the NWPA, 42 U.S.C. § 10131(b), prohibits transfer of title to spent nuclear fuel from private nuclear reactor licensees to the federal government unless and until a federal repository is operational. It thereby protects the public "from the hazards posed by high-level radioactive waste and . . . spent nuclear fuel." 42 U.S.C. §10131(b)(1), 42 U.S.C. § 10222(a)(5)(A). Section 706 of the APA, 5 U.S.C. §§ 706(2)(A) and (C), requires federal agencies to follow the law, thus protecting the public's interest in government accountability. *Department*

of *Homeland Security v. Regents of the University of California*, 140 S.Ct. 1891, 1905 (2020) (quoting *Franklin v. Massachusetts*, 505 U.S. 788, 796 (1992)) (explaining that the APA “sets forth the procedures by which federal agencies are accountable to the public”).

Therefore, Beyond Nuclear has the prudential standing required to bring a case under the Hobbs Act in federal court. *See Nuclear Energy Inst.*, 373 F.3d at 1279-80.

**Question 6(f): “Are there any other cases involving the same underlying agency order pending in this Court or any other?”**

Yes. First, this case has been consolidated with *Don’t Waste Michigan, et al., v. U.S. Nuclear Regulatory Commission*, No. 21-1048, and *Fasken Land and Minerals, Ltd., et al. v. NRC*, No. 21-1179, both of which seek review of one of the same orders pending in this Petition for Review: NRC Memorandum and Order CLI-20-14, issued on December 17, 2020. This case and case No. 21-1179 also both seek review of the Commission Order issued on October 29, 2018 (the “2018 Order”). This case has also been consolidated with *Sierra Club v. NRC*, No. 21-1055. This case and No. 21-1055 both seek review of the license issued to ISP to build and operate the WCS Consolidated Interim Storage Facility, published at 86 Fed. Reg. 51,926 (Sept. 17, 2021), and case No. 21-1055 also seeks review of an

NRC decision rejecting, in part, identical legal claims as this case: NRC

Memorandum and Order CLI-20-15, issued on December 17, 2020.<sup>2</sup>

Second, *Beyond Nuclear, Inc. v. U.S. Nuclear Regulatory Commission*, No. 20-1187 (consolidated with No. 20-1225) also seeks review of the 2018 Order. The NRC issued the 2018 Order in two different licensing dockets, involving two separate applicants, ISP (NRC Docket No. 72-1050, on review in the instant case) and Holtec International (NRC Docket No. 72-1051, on review in No. 20-1187 (consolidated with No. 20-1225)). The 2018 Order denied Beyond Nuclear's motion to dismiss both the ISP and Holtec licensing proceedings at their inception.

**Question 6(g): “Are there any other cases, to counsel’s knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve *substantially the same issues* as the instant case presents?”**

Yes. Petitioner Beyond Nuclear has raised identical legal claims in the instant case and *Beyond Nuclear, Inc. v. U.S. Nuclear Regulatory Commission*, No. 20-1187 (consolidated with No. 20-1225).<sup>3</sup> Both cases also concern similar factual circumstances: an application to the NRC by a private company for a license to

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<sup>2</sup> It is likely that the licensing decision will also be challenged in the consolidated cases Nos. 21-1048 and 21-1179.

<sup>3</sup> The NRC has not yet issued the Holtec license, and Case No. 20-1187 remains held in abeyance until license issuance. The NRC has, however, issued its final decision that the Holtec license can be issued with a provision contemplating federal spent fuel ownership. *See* Memorandum and Order CLI-20-04, 91 N.R.C. 167 (April 23, 2020).

store “spent” or used reactor fuel at a facility in the Southwestern United States.

The only significant differences lie in the identity of the applicants and the amount of spent fuel proposed to be stored at each facility.

In the instant case, Petitioner challenges the lawfulness of a license issued by NRC to ISP for a proposed facility in western Texas that would store 40,000 metric tons of “spent” (*i.e.*, used) reactor fuel. In No. 20-1187, Petitioner challenges the lawfulness of a license application by Holtec International for a proposed facility in eastern New Mexico that would store a larger quantity of spent fuel (100,000 tons or more). These factual differences do not materially affect Petitioner’s legal claim that the licenses, as well as the NRC’s very act of reviewing the license applications, violate the Nuclear Waste Policy Act, 42 U.S.C. §§ 10222(a)(5)(A) and 10143, and the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A) and (C).

Petitioner also notes that in each case, its petition for review has been consolidated with other parties’ petitions for review of the same NRC decisions. Those other parties’ petitions for review raise additional claims that differ from Petitioner’s claims.

**UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT**



|                               |   |                               |
|-------------------------------|---|-------------------------------|
| BEYOND NUCLEAR, INC.,         | ) |                               |
|                               | ) |                               |
|                               | ) |                               |
| Petitioner,                   | ) | Case No. 21-1056              |
|                               | ) |                               |
|                               | ) | Consolidated with Nos.        |
|                               | ) | 21-1048, 21-1055, and 21-1179 |
|                               | ) |                               |
| v.                            | ) |                               |
|                               | ) |                               |
| UNITED STATES NUCLEAR         | ) |                               |
| REGULATORY COMMISSION and the | ) |                               |
| UNITED STATES OF AMERICA,     | ) |                               |
|                               | ) |                               |
| Respondents.                  | ) |                               |
|                               | ) |                               |

**DECLARATION OF ROSE M. GARDNER**

Under penalty of perjury, I, Rose M. Gardner, declare as follows:

1. My name is Rose M. Gardner.
2. I am a member of Beyond Nuclear, Inc. (“Beyond Nuclear”).
3. I live at 1402 Avenue A, Eunice, New Mexico, 88231. My home is within seven miles of the Interim Storage Partners’ (“ISP”) Waste Control Specialists Consolidated Interim Storage Facility (the “Facility”). See Attachment A.
4. The majority of my family also lives in Eunice, New Mexico. My first daughter and eight-month-old grandson live next door to my home and my second daughter and her 12-year-old daughter live a block away from my home. My husband’s sister, her grown daughter, and her twelve-year-old granddaughter live at the intersection of Highway 176 and Highway 18, within approximately five miles of the Facility. I regularly spend time with my family at their homes. For example, my niece lives in Eunice as well and I take care of her three young children in both their home and my home.

5. My family and I all frequently and regularly spend time within eight miles of the Facility because we live, recreate, and work in Eunice. During the pandemic, I have worked solely at home. However, I am planning on reopening my flower shop, which will be located at 1407 Avenue A, Eunice, within eight miles of the Facility.
6. I also own about ten acres of land on 16th Street, between Avenue A and Avenue F, on which I raise horses and chickens, also about six miles from the Facility. I raise hay, alfalfa, and other grains on this land to feed cattle for two to three months each year. My family and I consume beef and agricultural products produced on this property. Additionally, there is a fresh water well on this property.
7. I also frequently and regularly spend time on the local roads near the Facility and transportation routes for the Facility. For example, I use Highway 176 and Highway 18 frequently to deliver flowers to my clients in Jal, New Mexico. Highway 18 parallels the Texas and New Mexico Railway that, in my understanding, ISP plans to use to transport spent nuclear fuel to the Facility. When I drive on Highway 18, I notice rail cars next to me. I believe there have been multiple train derailments in the past few years on this railroad.
8. I regularly enter Highway 18 from Highway 207 south of Eunice, New Mexico. To enter Highway 18 at this location, I have to cross the Texas and New Mexico Railway. There are only two entrances from Highway 18 into Eunice, both of which cross the railroad tracks that will be used for the transportation of nuclear waste, and only one of these railroad crossings is protected by a gate.
9. I am concerned about the radiation risks posed by the construction and operation of the Facility to my property, my health and safety, the health and safety of my family and livestock, and my environment from living and working next to a facility housing such an enormous inventory of radioactive material, and by transportation of spent nuclear fuel to the Facility. I am concerned that an accident at the Facility involving spent nuclear fuel will harm my family, livestock, and home due to radiological exposure.
10. I am concerned about the transportation risk the Facility poses. The oil fields in this area operate many large trucks on the roads near my home and work.

These trucks carry water, oil, and other products. I am deeply concerned about the health and safety risks posed by additional shipments of nuclear waste for myself, my family, and future children growing up here, particularly regarding childhood cancers. Furthermore, I am concerned that the transportation of nuclear waste along the railroad will expose those who are living near the railroad or who frequently cross it to unwanted doses of radiation.

11. I am concerned about the risk posed by the Facility to the agriculture industry around Eunice. I am concerned about the crops that are being grown for both people and animals to eat being affected by the Facility, and contaminants entering our food chain. I am concerned about impacts to my livestock from radiation or contamination of the water well on my property.
12. I am also concerned about the impact the Facility will have on the value of my home because I am concerned that the Facility will deter people from wanting to live in this area. It is my understanding that property values near a nuclear facility can be reduced as early as when it receives its license to operate due to real or perceived risks of exposure to radiation releases from the nearby facility. It is also my understanding that property values may continue to decrease as the facility is constructed and operating. I am also concerned that the Facility's operations may create a precedent for other companies seeking to handle nuclear waste in and around Eunice, New Mexico. Property values in Eunice have already been reduced due to the pandemic and I am concerned about any further reduction.
13. I am also concerned that my family and I will not be able to avoid small doses of unwanted radiation from driving next to rail cars carrying shipments of spent nuclear fuel, which will harm our health and safety. The route that the rail cars take—north through Eunice and then doubling back to go east of Eunice—extends the exposure time of residents near the railroad.
14. I am also concerned with the impacts to my interest and right to travel near my home posed by ISP's future transportation routes for spent nuclear fuel. We will not be able to avoid highways and roads that are involved with transporting spent nuclear fuel to the Facility because these highways and roads are our primary routes to access work, school, and recreational activities.

15. I believe that ISP's license application was inadequate and illegal as written, that the NRC's approval of that application was unlawful, and that my interests will not be adequately represented in this action without the opportunity for Beyond Nuclear to intervene as a party on my behalf.
  
16. Therefore, I previously authorized Beyond Nuclear to protect my interests by representing me in both (a) a motion to the NRC to dismiss ISP's license application and (b) a petition to intervene in the NRC's licensing proceeding for the Facility. When the NRC denied Beyond Nuclear's motion to dismiss ISP's license application, I authorized Beyond Nuclear to appeal that decision to this court. Now that the NRC has denied Beyond Nuclear's petition to intervene and granted ISP's license, I authorize Beyond Nuclear to appeal that decision to this court.

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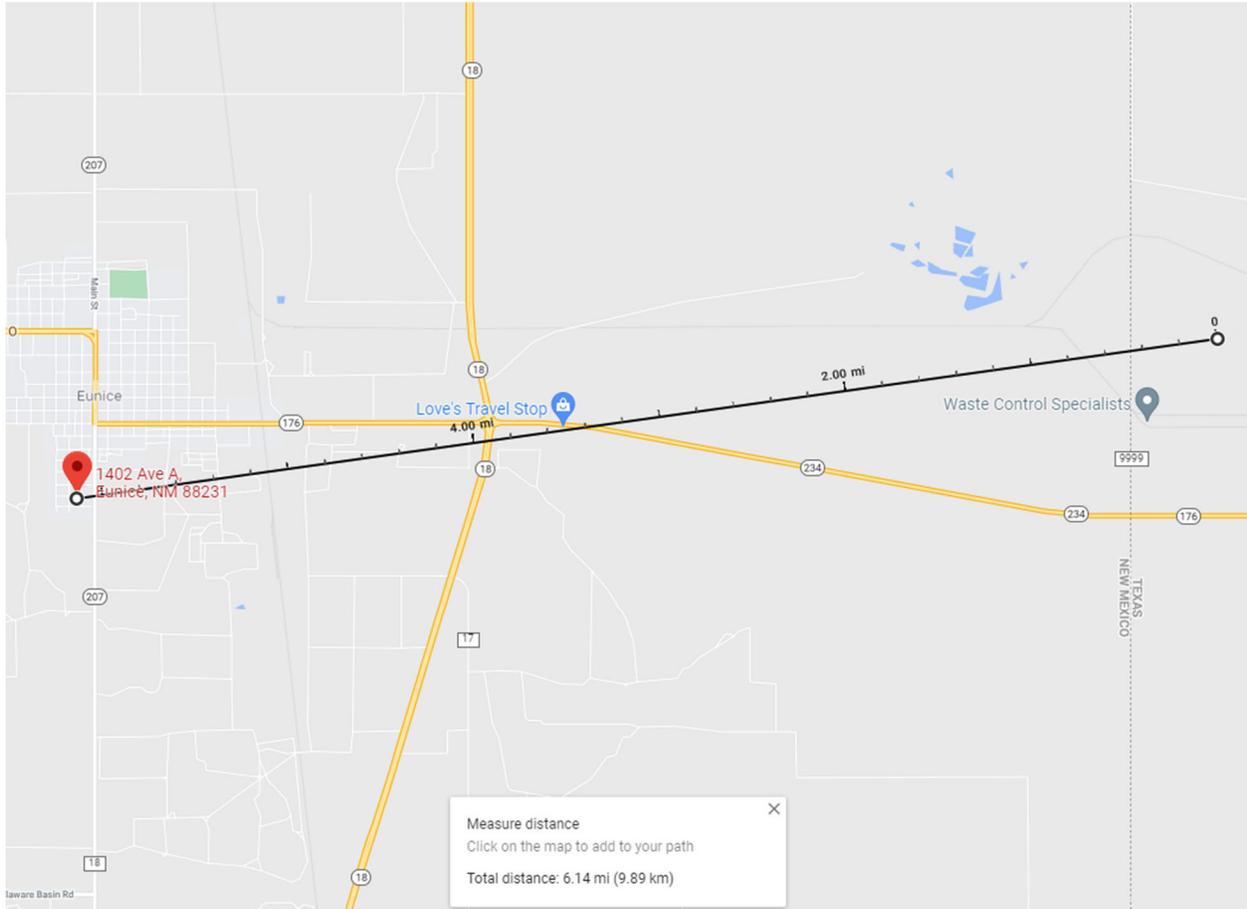
The declarant has caused this Declaration to be executed as of the date below.

Signed,

Rose M Gauthier

Dated: 10-27-21

Declaration of Rose Gardner  
Attachment A  
Distance from Rose Gardner's home to the Facility:



UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT



BEYOND NUCLEAR, INC.,
Petitioner,
v.
UNITED STATES NUCLEAR REGULATORY COMMISSION and the UNITED STATES OF AMERICA,
Respondents.
Case No. 21-1056
Consolidated with Nos. 21-1048, 21-1055, and 21-1179

DECLARATION OF D.K. BOYD

Under penalty of perjury, I, D.K. Boyd, declare as follows:

- 1. My name is D.K. Boyd.
2. I am a member of Beyond Nuclear.
3. My main address is 4200 Tanforan Avenue, Midland, Texas, 79707.
4. I own and ranch the Frying Pan Ranch, most of which I own by deed and some of which I lease from New Mexico. The Frying Pan Ranch is located on 137,599 acres in southeastern New Mexico and western Texas. The closest part of the Frying Pan Ranch to Interim Storage Partners' ("ISP") Waste Control Specialists Consolidated Interim Storage Facility (the "Facility") is only four miles away. I have attached a map identifying the location of this part of the Frying Pan Ranch and the Facility. See Attachment A.

5. I have mineral interests and working interests in oil and gas operations on the Frying Pan Ranch. I also lease some of the Frying Pan Ranch to companies conducting oil and gas operations.
6. My brother and his employees frequently and regularly spend time within 15 miles of the Facility because my brother runs cattle operations on the Frying Pan Ranch. One of my brother's employees lives on Frying Pan Ranch in New Mexico in Township 23S, Range 38E, Section 8.
7. I also frequently and regularly spend time on the local roads near the Facility and transportation routes for the Facility. For instance, I drive on Highway 18 south of Eunice, New Mexico. I have to use Highway 18 to travel for business, between different parts of my ranch, and between my residences. When I am on this Highway, I have noticed rail cars traveling next to me on the Texas and New Mexico Railway because this railroad parallels Highway 18 within a couple hundred feet for almost 40 miles. It is my understanding that ISP plans to transport spent nuclear fuel to the Facility on this railroad.
8. The Texas and New Mexico Railway also runs through approximately 5.5 miles of the Frying Pan Ranch. My family and I frequently and regularly cross this railroad via car or horse to conduct our cattle operations.
9. I am concerned about the radiation risks posed by the construction and operation of the Facility to my property, my health and safety, the health and safety of my family and employees, and my environment, by living and working next to a facility housing such an enormous inventory of radioactive material, and by transportation of spent nuclear fuel to the Facility.
10. I am also concerned that an accident involving spent nuclear fuel at the Facility will harm my family and property due to radiological exposure. I am also concerned that such an accident will harm the value of my mineral and working interests in gas and oil production or make them functionally inaccessible due to radiological exposure.
11. I am also concerned about the impact the Facility will have on the value of the Frying Pan Ranch. It is my understanding that property values near a nuclear facility can be reduced as early as when it receives its license to operate due to real or perceived risks of exposure to radiation releases from the nearby facility. It is also my understanding that property values continue to decrease as the Facility is constructed and operating.

12. I am also concerned that the licensing, construction, and operation of the Facility will impact the economic prosperity of the counties where I live and own land. It is my understanding that the Permian Basin in New Mexico and Texas is the largest oil and gas producer in the United States and the second largest in the world. I am concerned that construction and operation of the Facility on top of the Permian Basin will impact the ability to continue drilling so successfully here and therefore have a negative effect on the economy. This could harm local businesses and the value of my property. I am also concerned that construction and operation of the Facility will limit the domestic production of oil and gas in the United States.
13. I am also concerned that I will not be able to avoid small doses of unwanted radiation from driving next to rail cars carrying shipments of spent nuclear fuel, which will harm my health and safety.
14. I am also concerned with the impacts to my interest and right to travel near my home posed by ISP's proposed transportation of spent nuclear fuel on the Texas and New Mexico Railway. In order to ensure myself and my family travel on the safest roads to avoid unwanted doses of radiation or potential accidents involving transportation of spent nuclear fuel, we would have to avoid highways and roads that are our primary routes to access business and everyday necessities.
15. I am concerned that ISP's license application was inadequate and illegal as written, that NRC's approval of that application was unlawful, and that my interests will not be adequately represented in this action without the opportunity of Beyond Nuclear to intervene as a party in the proceeding on my behalf.
16. Therefore, I previously authorized Beyond Nuclear to protect my interests by representing me in both (a) a motion to the NRC to dismiss ISP's license application and (b) a petition to intervene in the NRC's licensing proceeding for the Facility. When the NRC denied Beyond Nuclear's motion to dismiss ISP's license application, I authorized Beyond Nuclear to appeal that decision to this court. Now that the NRC has denied Beyond Nuclear's petition to intervene and granted ISP's license, I authorize Beyond Nuclear to appeal that decision to this court.

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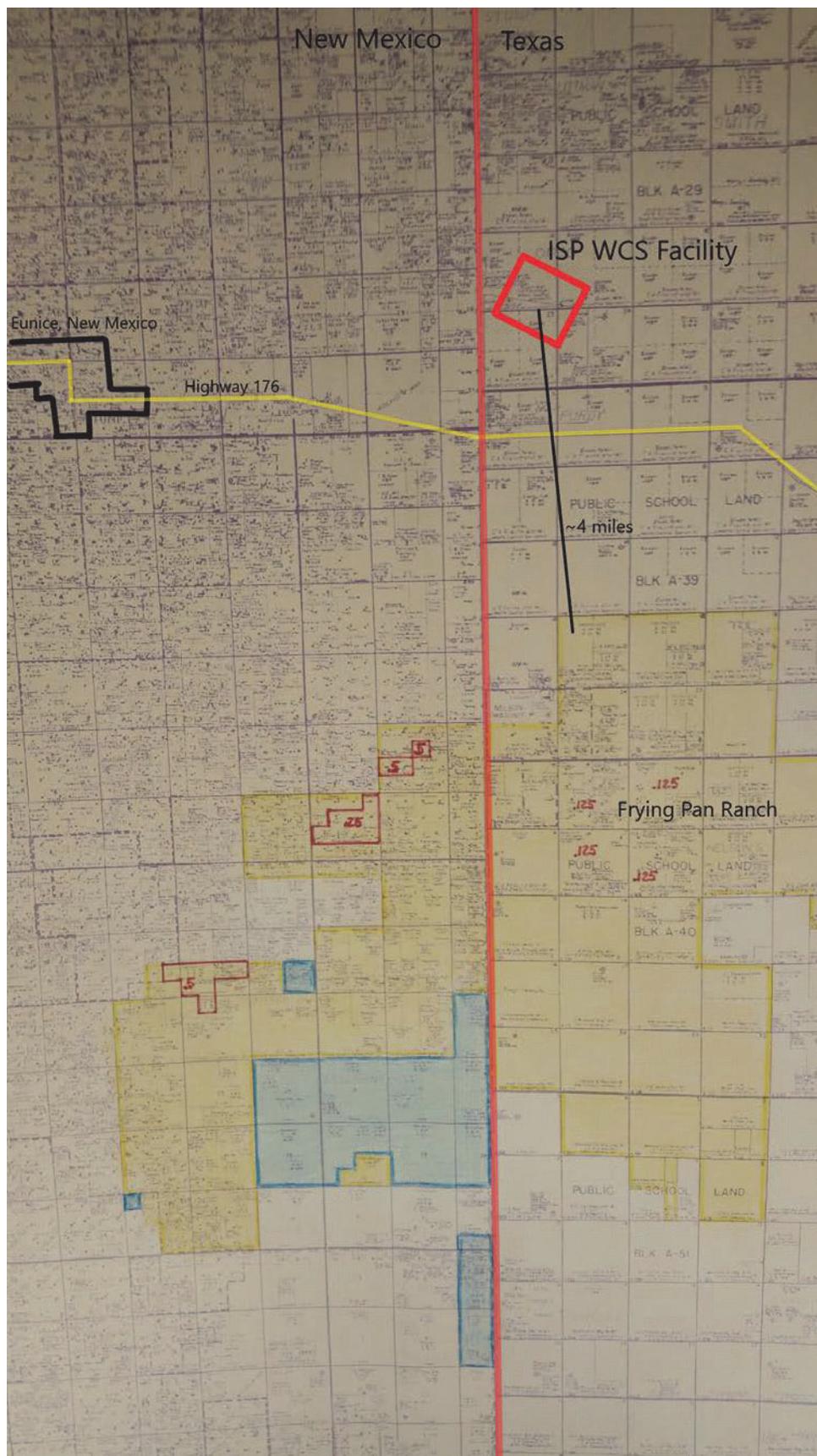
The declarant has caused this Declaration to be executed as of the date below.

Signed,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a horizontal line.

Dated: 10-25-21

# ATTACHMENT A





6. I am retired, but my daughter frequently and regularly spends time on the local roads near the Facility and transportation routes for the Facility. She must use Highway 176, which passes directly south of the Facility, to get to her job in Andrews, TX. The highways are very busy and can be dangerous due to truck traffic.
7. I am concerned about the risks to my health and safety and to my environment posed by the construction and operation of the Facility, and by transportation of spent nuclear fuel to the Facility.
8. I am concerned about the radiation risks posed by the construction and operation of the Facility to the health and safety of my family and my environment by living and working near a facility housing such an enormous inventory of radioactive material, and by the transportation of spent nuclear fuel to the Facility. I am concerned my family and I may be exposed to unwanted radiation from the Facility in our daily lives just by conducting our regular work and recreational activities.
9. In addition, I am concerned about the radiation risks posed by the construction and operation of the Facility and transportation of nuclear waste to the Facility to the health and safety of the workers and nearby residents from being near such an enormous inventory of radioactive material.
10. I am concerned that the added traffic associated with the construction and operation of the Facility and transportation of spent nuclear fuel may create dangerous situations. The roads are already dangerous and extremely congested because of the truck traffic, waste management operations, and oil and gas operations. I frequently hear of accidents on these highways. I am worried that an accident involving the transport of spent fuel will impact my health and safety and the health and safety of my family.
11. I am especially concerned for my young grandchildren as they grow and develop around the Facility which could create potential radiation exposure. Currently, I care for my grandchildren when my daughter is at work, but as they grow and attend school, they will frequently spend time on the roads used as transportation routes and those near the Facility.
12. I am also concerned with the impacts posed by ISP's proposed transportation of spent nuclear fuel on the Texas and New Mexico Railway to my interest and right to travel near my home. In order to ensure myself and my family

travel on the safest roads to avoid unwanted doses of radiation or potential accidents involving the transportation of spent nuclear fuel, we would have to avoid highways and roads that are the primary routes to access businesses and everyday necessities. I am concerned that my family and I will not be able to avoid small doses of unwanted radiation from driving next to rail cars carrying shipments of spent nuclear fuel, which will harm my health and safety.

13. I am concerned that an accident involving spent nuclear fuel at the Facility will harm me and my family due to radiological exposure. In addition, I am concerned an accident may harm me and my family by contaminating the water supply of the counties where I live and travel.
14. I am concerned that the licensing, construction, and operation of the Facility will impact the economic prosperity of the counties where I live, as well as decrease the value of my home and other property. I am concerned the Facility will deter people from wanting to live in this area. It is my understanding that property values near a nuclear facility can be reduced as early as when it receives its license to operate due to real or perceived risks of exposure to radiation releases from a nearby facility. It is also my understanding that property values may continue to decrease as the facility is constructed and operating.
15. I am also concerned that a leak or accident could contaminate the land that is used for ranching and oil and gas leases, impacting the health of the workers, the health of the livestock, and the economic health of the land. Additionally, I am concerned this could impact the economy where I live because people may associate the area with nuclear waste. I am concerned no one will want to buy cattle from this area because of the real or perceived fear that the cattle are contaminated by nuclear waste. I am also concerned that an accident will harm the value of any mineral and/or oil and gas production interests.
16. Finally, I am concerned that ISP's license application was inadequate and illegal as written, that the NRC's approval of that application was unlawful, and that my interests will not be adequately represented in this action without the opportunity for Beyond Nuclear to intervene as a party on my behalf.

17. Therefore, I authorize Beyond Nuclear to protect my interests by representing me in this appeal of the NRC's decisions to deny Beyond Nuclear's Motion to Dismiss and petition to intervene and to grant ISP's license.

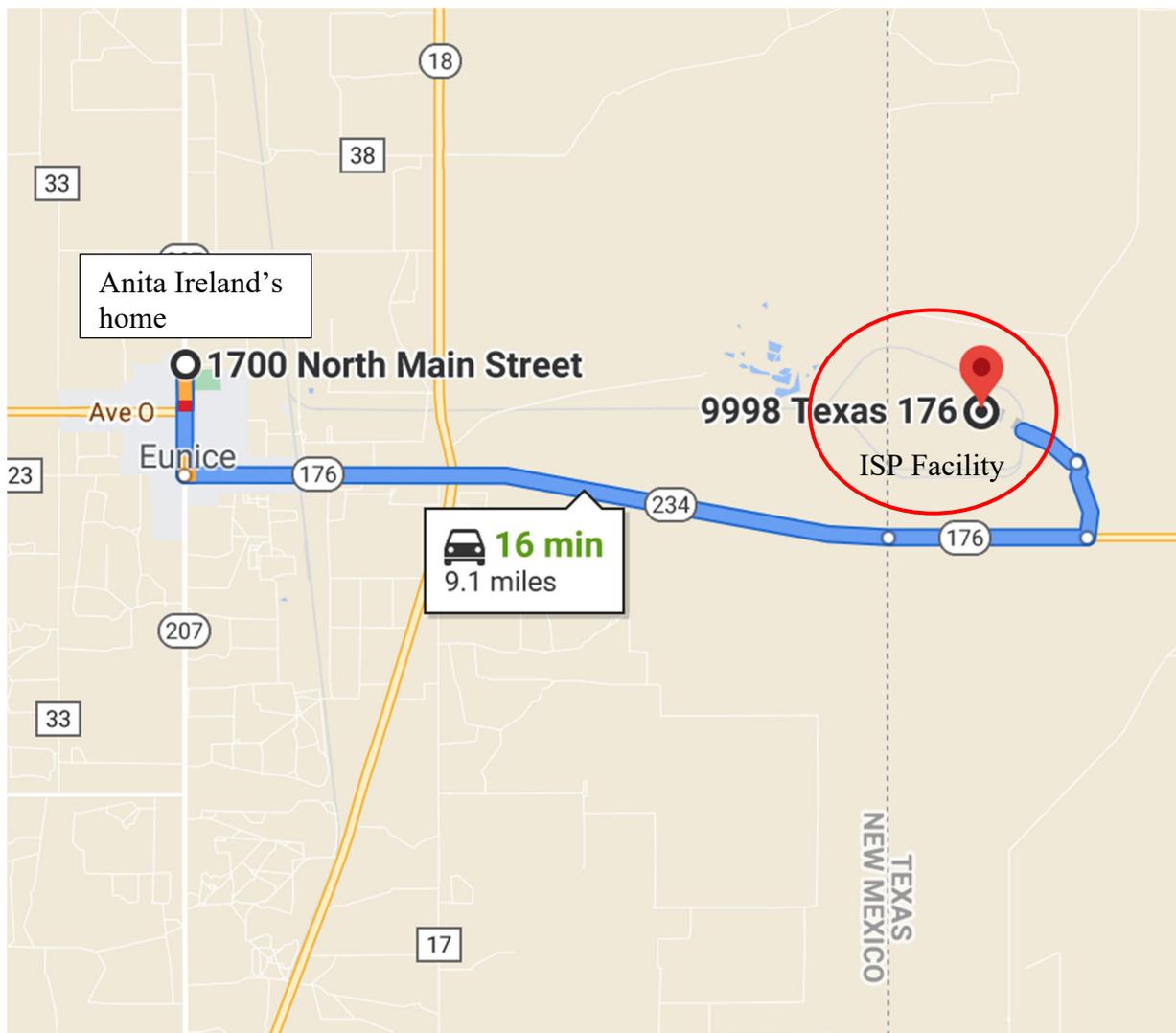
[Remainder of page intentionally left blank]

The declarant has caused this Declaration to be executed as of the date below:

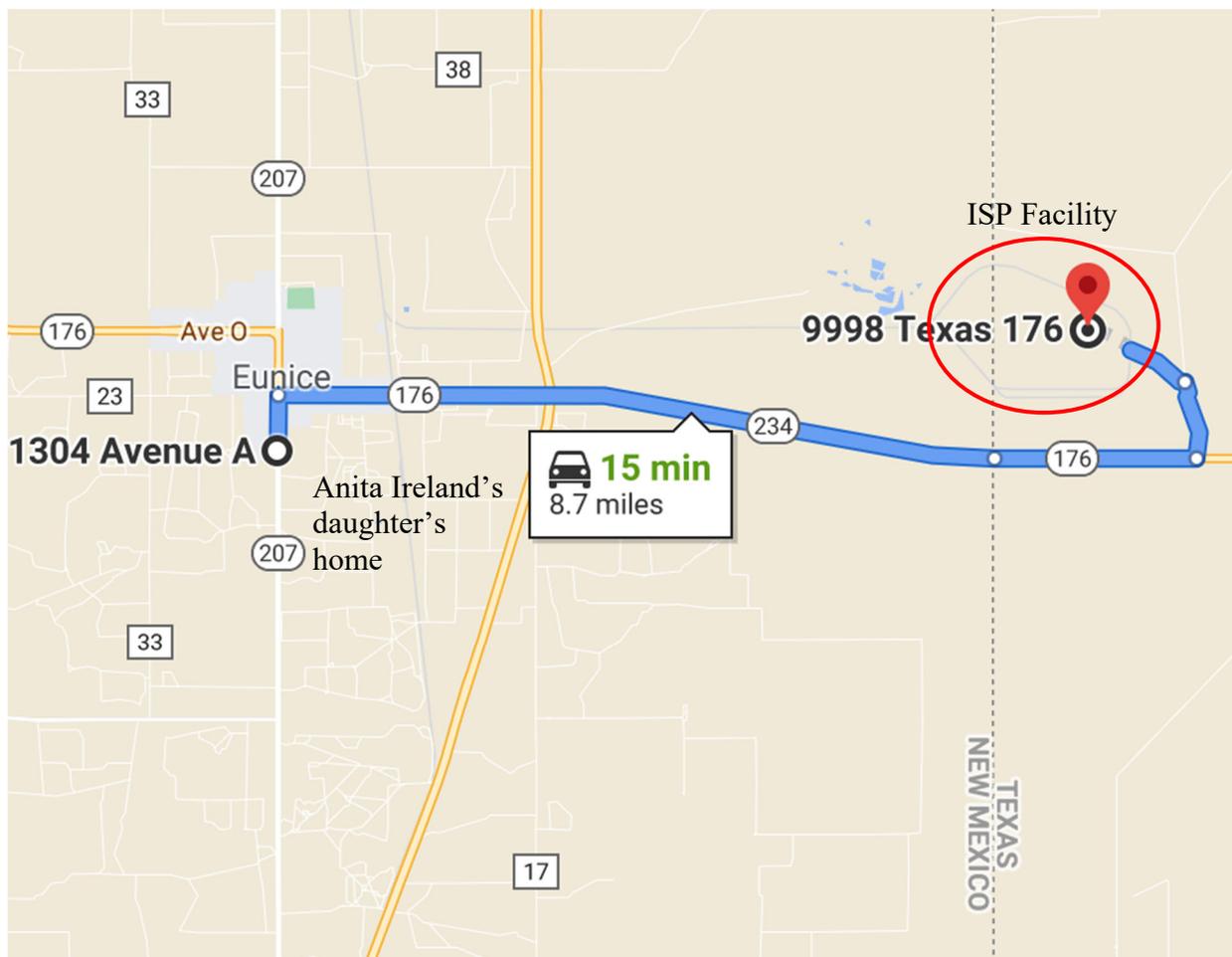
Signed: 

Dated: 10/25/2021

Declaration of Anita Ireland  
Attachment A



### Declaration of Anita Ireland Attachment B





5. I also have mineral interests and oil and gas interests on the Frying Pan Ranch.
6. My employee and I frequently and regularly spend time within 15 miles of the Facility because of my cattle operations on the Frying Pan Ranch. My employee lives on Frying Pan Ranch in New Mexico in Township 23S, Range 38E, Section 8.
7. I also frequently and regularly spend time on the local roads near the Facility and transportation routes for the Facility. For instance, I drive on Highway 18 south of Eunice, New Mexico and Highway 176 which passes directly south the Facility. I have to use Highway 18 and Highway 176 for travel to the ranch, for business, for transport of my cattle, and for travel between different parts of the ranch. These Highways are very busy and can be dangerous due to truck traffic.
8. I am concerned about the risks to my business, my health and safety, and my environment posed by the construction and operation of the Facility, and by transportation of spent nuclear fuel to the Facility.
9. I am concerned about the radiation risks posed by the construction and operation of the Facility to my business, my health and safety, the health and safety of my family and employee, and my environment, by living and working next to a facility housing such an enormous inventory of radioactive material, and by transportation of spent nuclear fuel to the Facility. I am concerned that we may be exposed to unwanted radiation from the Facility in our daily lives just by conducting our regular work and recreation activities.
10. I am concerned that an accident involving spent nuclear fuel at the Facility will harm me, my family, employee, and business due to radiological exposure. An accident may impact my livelihood and way of life by directly impacting my cattle. In addition, I am concerned that New Mexico and Texas will become known for their storage of nuclear waste and no one will want to buy my cattle because of a real or perceived fear that the cattle are poisoned or contaminated.
11. I am also concerned that such an accident will harm the value of my mineral and working interests in gas and oil production or make them functionally inaccessible due to radiological exposure.

12. I am also concerned that such an accident may harm the water supply of the counties where I live and work. It is my understanding that the Ogallala Aquifer in New Mexico and Texas, located directly under and around the Facility, is the largest aquifer in the United States and provides more water for users than any other aquifer in Texas. The availability of this water is critical to my business, the surrounding environment, and the economy of the area in which I live and work.
13. I am concerned that the added traffic associated with construction and operation of the Facility and the transport of spent nuclear fuel may create dangerous situations. The roads are already dangerous and at capacity because of the oil and gas operations. I frequently hear of accidents on these highways. I am worried that an accident involving the transport of spent fuel will impact my health and safety.
14. I am also concerned with the impacts to my interest and right to travel near my home posed by ISP's proposed transportation of spent nuclear fuel on the Texas and New Mexico Railway. In order to ensure myself and my family travel on the safest roads to avoid unwanted doses of radiation or potential accidents involving transportation of spent nuclear fuel, we would have to avoid highways and roads that are our primary routes to access business and everyday necessities. I am concerned that I will not be able to avoid small doses of unwanted radiation from driving next to rail cars carrying shipments of spent nuclear fuel, which will harm my health and safety.
15. I am concerned that the licensing, construction, and operation of the Facility will impact the economic prosperity of the counties where I live and work. It is my understanding that the Permian Basin in New Mexico and Texas is the largest oil and gas producer in the United States and the second largest in the world. I am concerned that construction and operation of the Facility on top of the Permian Basin will impact the ability to continue drilling so successfully here and therefore have a negative effect on the economy. This could harm local businesses. I am also concerned that construction and operation of the Facility will limit the domestic production of oil and gas in the United States.
16. I am concerned that ISP's application was inadequate and illegal as written, that the NRC's approval of that application was unlawful, and that my

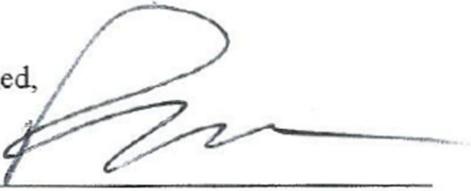
interests will not be adequately represented in this action without being represented by Beyond Nuclear.

17. Therefore, I authorize Beyond Nuclear to protect my interests by representing me in this appeal of the NRC's decisions to deny Beyond Nuclear's Motion to Dismiss and petition to intervene and to grant ISP's license.

[Remainder of this page intentionally left blank.]

The declarant has caused this Declaration to be executed as of the date below.

Signed,

A handwritten signature in black ink, consisting of a large, stylized initial 'P' followed by a series of connected, fluid strokes that trail off to the right. The signature is written above a solid horizontal line.

Dated: 10-26-21

# ATTACHMENT A

