

I oppose the proposed Holtec/Eddy-Lea Energy Alliance
Centralized Interim Storage facility in New Mexico.

Why Are All These High Risks Being Taken in the First Place?!

[Sample comments you can use to prepare your own, for submission to the U.S. Nuclear Regulatory Commission (NRC). See how to submit public comments, by the ~~May 29~~ July 30, 2018 environmental scoping period deadline, at the bottom of these sample comments.]

Why are all these high risks being taken in the first place? For no good reason whatsoever! Certainly not to benefit public health, safety, security, or environmental protection, despite Holtec International/Eddy-Lea [Counties] Energy Alliance (Holtec/ELEA), and nuclear power industry, claims and PR-spin to the contrary. Truth be told, it's to transfer title, liability, costs, and risks, for the highly radioactive irradiated nuclear fuel, from the companies that generated it, and profited from its generation, onto the backs of federal taxpayers (if the U.S. Department of Energy (DOE) is stuck paying all the bills - and/or onto the backs of nuclear electricity ratepayers, if Holtec/ELEA's lobbyists can finagle access to the monies remaining in the Nuclear Waste Fund coffers). That's a pretty big favor to the companies - in fact, it's unique in all of industry.

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

Dr. Mark Cooper of Vermont Law School, in December 2013, in his expert witness comments to the U.S. Nuclear Regulatory Commission's (NRC) Nuclear Waste Confidence/Continued Storage of Spent Nuclear Fuel EIS (Environmental Impact Statement) proceeding, calculated that the first 200 years of commercial irradiated nuclear fuel storage will cost \$210 to 350 billion (yes, with a B). (See his expert comments at <

<https://web.archive.org/web/20160909042541/http://www.nirs.org/radwaste/exhibitd2013-12-16markcooperfinaldeclaration.pdf>>, as well as the related press release at < <http://www.cleanenergy.org/2013/12/19/waste-disposal-nrc/>>.)

His estimate assumed two centralized interim storage facilities (CISFs; and as it turns out, Holtec/ELEA in New Mexico; and Waste Control Specialists, LLC in Texas (WCS) - just 38 miles from each other - have now both applied to NRC for CISF construction and operation licenses), one permanent geologic repository (burial dump, as currently targeted at Yucca Mountain, Nevada), and ongoing on-site storage at nuclear power plants, as needed. It effectively doubled the costs of nuclear-generated electricity, because those irradiated nuclear fuel management costs had never been accounted for, not in a half-century of commercial irradiated nuclear fuel generation in the U.S. (the first civilian reactor began operations at Shippingport, Pennsylvania in 1957.) Thus, centralized interim storage, as at Holtec/ELEA in NM, as well at WCS in TX, would be yet another significant public subsidy, benefitting the nuclear power industry, on top of more than a half-century

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ADD= Antoinette Walker-Smith,

Jill Caverly (JSC1)

of significant public subsidies of various sorts. (See the Union of Concerned Scientists' 2011 report < <http://www.ucsusa.org/nuclear-power/cost-nuclear-power/nuclear-power-subsidies-report#.WK3Iz4WkUZU>>, for a comprehensive overview of the many assorted, unmatched by any other industry, public subsidies the nuclear power industry has enjoyed over the past several decades.)

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

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

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

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

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

This simple fact formed the basis for an environmental coalition letter to NRC in Oct. 2016, pointing out that the WCS license application is illegal, and that the agency should cease and desist from processing it. (See <http://www.beyondnuclear.org/centralized-storage/2016/10/26/despise-setbacks-beyond-nuclear-and-allies-continue-to-chall.html> for additional information.)

Does Holtec/ELEA intend to foot the bill for its CISF in s.e. NM? Does it intend to assume title and liability for the irradiated nuclear fuel? Or will the nuclear power

utilities retain title and liability, pay all costs, and assume all risks? If this is the case, then why doesn't Holtec/ELEA simply utilize the Private Fuel Storage, LLC (PFS) CISF, already approved by NRC over a decade ago? PFS, targeted at the Skull Valley Goshute Indian Reservation in west UT, was highly controversial, but that didn't prevent NRC from ultimately rubber-stamping the scheme. For more info., see: <http://archives.nirs.us/radwaste/scullvalley/skullvalley.htm> .

Well, the simple answer, and open secret, is: Holtec/ELEA doesn't want to shoulder the costs, risks, and liabilities. It would prefer DOE (that is taxpayers, and/or ratepayers) shoulder those, while it simply pockets the profits.

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

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

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

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

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

This end run around the precautionary linkage between an operating repository, and one or more centralized interim storage facilities, that WCS seeks, and very

likely Holtec/ELEA also seeks, would be a huge boon to the nuclear power industry. It would expedite the transfer of all costs, risks, and liabilities for irradiated nuclear fuel, from the nuclear utilities that profited from its generation, onto the backs of U.S. federal taxpayers, and/or nuclear utility ratepayers, sooner rather than later -- even before a repository is operating. Long before, actually: the DOE's most recent estimate, as to when a repository can be opened, is 2048! That is very likely an overly optimistic opening date!

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

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

In its licensing application documents, Holtec/ELEA has been more savvy, and less blatant, about off-loading costs, risks, and liabilities on taxpayers and/or ratepayers. But if this is truly the case, why then doesn't Holtec/ELEA utilize the PFS license NRC rubber-stamped in UT? The reason is, neither Holtec/ELEA, nor the nuclear power industry, want to retain that title, and those consequent risks and liabilities, let alone pay all those costs, associated with CISFs!

These sample comments were prepared by Kevin Kamps, Radioactive Waste Specialist at Beyond Nuclear, on April 18, 2018. For more info., please contact him at kevin@beyondnuclear.org, or (240) 462-3216. Learn more about radioactive waste risks at CISFs/MRSs at: <http://www.beyondnuclear.org/centralized-storage/>

**HOW TO SUBMIT YOUR PUBLIC COMMENTS TO NRC BY THE MAY 29, 2018
ENVIRONMENTAL SCOPING PERIOD DEADLINE:**

Please include "Docket ID NRC-2018-0052" in your comment submission, such as in the subject line of your e-comments or snail-mailed hard copy comments.

*Mitchell Marique Mitchell Marique
1207 25th Avenue
Menominee, MI 49858*