

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matters of)	
)	
)	
HOLTEC INTERNATIONAL)	Docket No. 72-1051
)	
(HI-STORE Consolidated Interim Storage Facility))	
)	
)	
INTERIM STORAGE PARTNERS LLC)	Docket No. 72-1050
)	
(WCS Consolidated Interim Storage Facility))	
)	
)	

ORDER

On July 16, 2018, the NRC provided notice in the *Federal Register* of Holtec International's application to construct and operate a consolidated interim storage facility for spent nuclear fuel.¹ Separately, on August 29, 2018, the NRC provided notice in the *Federal Register* of Interim Storage Partners' application to construct and operate a consolidated interim storage facility for spent nuclear fuel.²

On September 14, 2018, Beyond Nuclear, Fasken Land and Minerals, and Permian Basin Land and Royalty Owners filed motions to dismiss both the Holtec and Interim Storage Partners applications.³ These groups argue that the NRC cannot, as a threshold matter, issue

¹ Holtec International HI-STORE Consolidated Interim Storage Facility for Interim Storage of Spent Nuclear Fuel, 83 Fed. Reg. 32,919 (July 16, 2018).

² Interim Storage Partner's Waste Control Specialists Consolidated Interim Storage Facility, 83 Fed. Reg. 44,070 (Aug. 29, 2018), corrected, 83 Fed. Reg. 44,608 (Aug. 31, 2018) (noting that the correct deadline to file intervention petitions is October 29, 2018). Interim Storage Partners is a joint venture of Orano USA and Waste Control Specialists.

³ Beyond Nuclear filed its own motion to dismiss. *Beyond Nuclear, Inc.'s Motion to Dismiss Licensing Proceedings for Hi-Store Consolidated Interim Storage Facility and WCS Consolidated Interim Storage Facility for Violation of the Nuclear Waste Policy Act* (Sept. 14,

licenses to Holtec or Interim Storage Partners because both applications are contrary to the Nuclear Waste Policy Act (NWPAA). Specifically, the groups argue that both applications contemplate the storage of Department of Energy-titled spent fuel in violation of various NWPAA provisions.

The NRC's regulations allow interested persons to file petitions to intervene and requests for hearing in which they can raise concerns regarding a particular license application. These regulations do not, however, provide for the filing of threshold "motions to dismiss" a license application; instead, interested persons must file petitions to intervene and be granted a hearing. I therefore deny both motions to dismiss on procedural grounds, without prejudice to the underlying merits of the legal arguments embedded within the motions.

Beyond Nuclear also filed hearing petitions in the Holtec and Interim Storage Partners proceedings that incorporated by reference the NWPAA arguments that it raised in its motion to dismiss and identified those arguments as proposed contentions.⁴ I am separately referring these hearing requests—as well as other hearing requests challenging the applications—to the Atomic Safety and Licensing Board Panel (ASLBP) for the establishment of a Board to consider *all* hearing requests in accordance with the hearing procedures set forth in 10 C.F.R. §2.309. And, in accordance with 10 C.F.R. § 2.346(i), I am referring the motion from Fasken Land and

2018) (ADAMS Accession No. ML18257A318). Fasken Land and Minerals joined with Permian Basin Land and Royalty Owners to file a motion to dismiss that is substantially similar to Beyond Nuclear's motion. *Motion of Fasken Land and Minerals and Permian Basin Land and Royalty Owners to Dismiss Licensing Proceedings for Hi-Store Consolidated Interim Storage Facility and WCS Consolidated Interim Storage Facility* (Sept. 14, 2018) (ML18257A330). Both the NRC Staff and respective applicants filed oppositions to the motions, and Beyond Nuclear, Fasken Land and Minerals, and Permian Basin Land and Royalty Owners then filed replies.

⁴ *Beyond Nuclear, Inc.'s Hearing Request and Petition to Intervene* (Sept. 14, 2018) (ML18257A324) (Holtec docket); *Beyond Nuclear, Inc.'s Hearing Request and Petition to Intervene* (Oct. 3, 2018) (ML18276A242) (Interim Storage Partners docket). Fasken Land and Minerals and Permian Basin Land and Royalty Owners have not filed related hearing petitions in either docket.

Minerals and Permian Basin Land and Royalty Owners to the ASLBP for consideration under § 2.309.

This Order is issued under my authority in 10 C.F.R. § 2.346(c), (g), (i), and (j).

IT IS SO ORDERED.

For the Commission

NRC SEAL

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 29th day of October 2018

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
INTERIM STORAGE PARTNERS LLC)	Docket No. 72-1050-ISFSI
)	
(WCS Consolidated Interim Storage Facility))	
)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order of the Secretary** have been served upon the following persons by the Electronic Information Exchange:

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, DC 20555-0001

E. Roy Hawken
Chief Administrative Judge
E-mail: roy.hawken@nrc.gov

Joseph McManus, Law Clerk
E-mail: joseph.mcmanus@nrc.gov

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O16-B33
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O16-B33
Washington, DC 20555-0001
Hearing Docket
E-mail: Hearing.Docket@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-14A44
Washington, DC 20555-0001
Patrick Moulding, Esq.
Mauri Lemoncelli, Esq.
Sara Kirkwood, Esq.
Emily Monteith, Esq.
Alana Wase, Esq.
Joe Gillespie, Esq.
Thomas Steinfeldt
E-mail: patrick.moulding@nrc.gov
mauri.lemoncelli@nrc.gov
sara.kirkwood@nrc.gov
emily.monteith@nrc.gov
alana.wase@nrc.gov
joe.gillespie@nrc.gov
thomas.steinfeldt@nrc.gov

Docket No. 72-1050-ISFSI
Order of the Secretary

Counsel for Beyond Nuclear

Diane Curran, Esq.
Harmon, Curran, Spielberg and Eisenberg
1725 DeSales Street NW, Suite 500
Washington, DC 20036
E-mail: dcurran@harmoncurran.com

Mindy Goldstein, Esq.
Caroline Reiser, Esq.
Emory University School of Law
Turner Environmental Law Clinic
1301 Clifton Road
Atlanta, GA 30322
E-mail: magolds@emory.edu
caroline.j.reiser@emory.edu

Diane D'Arrigo
Nuclear Information and
Resource Service (NIRS)
6930 Carroll Avenue
Suite 340
Takoma Park, MD 20912
Email: dianed@nirs.org

Chris Hebner, Esq.
City of San Antonio, TX
P.O. Box 839966
San Antonio, TX 78283
E-mail: chris.hebner@sanantonio.gov

Counsel for Fasken Land and Oil and
Permian Basin Land and Royalty Owners
Robert V. Eye Law Office, L.L.C.
Robert Eye, Esq.
Timothy Laughlin
4840 Bob Billings Parkway, Suite 1010
Lawrence, KS 66049
E-mail: bob@kauffmaneye.com
tijay1300@gmail.com

Karen D. Hadden
Executive Director,
Sustainable Energy and
Economic Development (SEED) Coalition
605 Carismatic Lane
Austin, TX 78748
E-mail: karendhadden@gmail.com

Counsel for Interim Storage Partners LLC
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue NW
Washington, DC 20004
Stephen Burdick, Esq.
Timothy Matthews, Esq.
Ryan Lighty, Esq.
Paul Bessette, Esq.
E-mail: stephen.burdick@morganlewis.com
timothy.matthews@morganlewis.com
ryan.lighty@morganlewis.com
paul.bessette@morganlewis.com

Wallace Taylor
Counsel for Sierra Club
118 3rd Avenue SE
Suite 326
Cedar Rapids, IA
E-mail: wtaylorlaw@aol.com

[Original signed by Herald M. Speiser]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 29th day of October, 2018