

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Paul S. Ryerson, Chairman
Nicholas G. Trikouros
Dr. Gary S. Arnold

In the Matter of

HOLTEC INTERNATIONAL

(HI-STORE Consolidated Interim Storage
Facility)

Docket No. 72-1051-ISFSI

ASLBP No. 18-958-01-ISFSI-BD01

January 10, 2019

ORDER

(Establishing Format for Oral Argument)

The Board will hear oral argument concerning standing and the sufficiency of the hearing requests on Wednesday, January 23 and, as necessary, Thursday, January 24, 2019 at the State Bar of New Mexico, 5121 Masthead Street NE, Albuquerque, New Mexico.¹ The argument will commence at 9:00 a.m. Mountain Standard Time (MST).

The principal purpose of the argument is to allow the Board to question the participants concerning their pleadings, which the Board has read. The Board expects to question counsel in the following order: (1) counsel for Beyond Nuclear; (2) counsel for Sierra Club; (3) counsel for Alliance for Environmental Strategies (AFES); (4) counsel for Don't Waste Michigan, Citizens' Environmental Coalition, Citizens for Alternatives to Chemical Contamination, Nuclear Energy Information Service, Public Citizen, Inc., San Luis Obispo Mothers for Peace, and Nuclear Issues Study Group (collectively, Joint Petitioners); (5) counsel for NAC International,

¹ A limited number of private conference rooms may be available to rent from the State Bar. Interested participants should contact Ms. Andrea Watson at (505) 797-6030.

Inc. (NAC); (6) counsel for Fasken Land and Minerals and Permian Basin Land and Royalty Owners (Fasken); (7) counsel for Holtec International (Holtec); (8) and counsel for the NRC Staff.²

Although the principal purpose is to allow the Board's questions, each participant will be given an opportunity to make a brief opening statement—not to exceed 10 minutes. However, opening statements are not necessary.

Each petitioner, Holtec, and the NRC Staff should be prepared to answer the Board's questions about any aspect of its pleadings. However, some specific questions, as well as general subject areas in which Board members anticipate additional questions, presently include the following:

1. Does Holtec agree that, absent new legislation, the Department of Energy could not lawfully assume ownership of the nuclear waste in the proposed interim storage facility?

2. If Holtec does not agree, have Beyond Nuclear and the Sierra Club raised an admissible legal issue contention concerning this issue?

3. Treating Fasken's motion to dismiss as a hearing petition, has Fasken effectively adopted Beyond Nuclear's sole contention?

4. If so, and Fasken having proffered no other contention of its own, must its hearing petition be dismissed?

5. To what extent must subsurface conditions be characterized in the Environmental Report if the proposed storage facility would not affect them?

6. To what extent must subsurface characteristics be characterized by the safety analysis if these subsurface characteristics would not affect the safety of the storage facility?

² Only the authorized representatives of the petitioners, Holtec, and the NRC Staff who have entered an appearance pursuant to 10 C.F.R. § 2.314 will be permitted to participate. No technical expert or member of the public will be permitted to speak for, or on behalf of, any participant.

7. Because Holtec asserts high burnup fuel will always be enclosed within the HI-STORE canister, and the HI-STORE system has been certified by the NRC for storage and transportation of high burnup fuel, to what extent must high burnup fuel be specifically addressed in the application?

8. Standing premised on proximity to potential transportation routes.

9. Standing premised on proximity to the proposed facility.

10. Adequacy of the application with respect to design alternatives analysis and the need for disclosure of proprietary design information in such an analysis.

11. Adequacy of the application with respect to geologic risks and geologic characterization of the proposed site.

12. Why would a hearing opportunity associated with license amendments be less satisfactory to NAC than a hearing in the present proceeding?

13. Safe storage and transportation implications of the UMAX storage system's operating beyond its current design and service life, including the effects of high burnup fuel.

14. Risks associated with onsite storage compared with offsite storage, including transportation risks and the potential effects of high burnup fuel.

If time permits, after the Board's questions the participants may be permitted to make very brief concluding statements.

The Board will also reserve some limited time for comments from a single representative of each interested local government petitioner from: (1) Eddy-Lea Energy Alliance; (2) City of Carlsbad, New Mexico; (3) Lea County, New Mexico; (4) Eddy County, New Mexico; and (5) City of Hobbs, New Mexico. Local government petitioners need not make any comments if they so choose.

Members of the public and representatives of the media are welcome to attend and observe. However, signs, banners, posters, demonstrations, and displays are prohibited in accordance with NRC policy.³

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Paul S. Ryerson, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
January 10, 2019

³ See Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 Fed. Reg. 31,719 (June 12, 2001).

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Establishing Format for Oral Argument)** have been served upon the following persons by Electronic Information Exchange (EIE).

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

Dated at Rockville, Maryland,
this 10th day of January, 2019