



State of New Mexico

Michelle Lujan Grisham
Governor

November 16, 2022

Joseph R. Biden
The President of the United States
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear President Biden,

I write to ask for your action in relation to the proposed storage of spent nuclear fuel and high-level nuclear waste by a private company within the state of New Mexico. The U.S. Nuclear Regulatory Commission (NRC) recommended approval in its July 2022 final environmental impact statement (FEIS) of the Holtec International (Holtec) license application to construct and operate a consolidated interim storage facility for spent nuclear fuel and Greater-Than-Class C waste at a site located between the cities of Carlsbad and Hobbs, in Lea County, New Mexico. As governor of a state that is working closely with your administration on a range of energy issues, I ask that you direct the Department of Energy (DOE) and the NRC to suspend consideration of the Holtec license application and to directly engage with the State of New Mexico within a consent-based framework on the many unaddressed issues related to nuclear waste disposal at this and related facilities that we have been raising for years.

New Mexico has grave concerns for the risk this proposed storage site would pose to our citizens and communities, our first responders, our environment, and to New Mexico's agriculture and natural resource industries. Despite our strong objections and concerns over public health, economic, scientific, natural resource issues and environmental justice – and those of tribal leaders, local governments, and the people of New Mexico – the NRC has failed to address, or even acknowledge, the issues we have raised multiple times - effectively choosing to allow private financial interests to override a state partner's lack of consent.

New Mexico has consistently and strongly opposed this nonconsensual private proposal for many years. I wrote the Secretary of the DOE and the Chairman of the NRC in June 2019 of the significant and unacceptable risks to New Mexicans, our environment and our economy related to this project. I wrote to your predecessor in July 2020, expressing New Mexico's opposition to the Nuclear Regulatory Commission's consideration of a license for this proposal. With members of our New Mexico congressional delegation, I wrote again to the NRC in July 2021, raising these same issues. Most recently, in March 2022, New Mexico submitted comments to DOE insisting that the siting of any interim storage facility in a state, irrespective of whether it manages federal

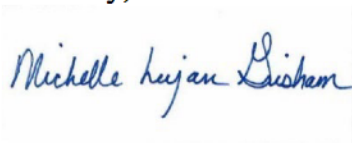
or commercial nuclear waste, must require concurrence from the current governor prior to issuing its license or permit to operate. In addition, the Western Governors Association, a bipartisan organization representing the governors of 22 states, passed a policy resolution in June of this year reaffirming that “no radioactive waste storage or disposal facility should be located within the geographic boundaries of a western state or U.S. territory without the written consent of the current Governor.”¹ Yet, the NRC continues to ignore this expressed opposition, as well as the significant and substantial issues the state, tribes, and many other stakeholders have raised, and has now recommended licensure of the Holtec facility.

The NRC and the DOE have also failed in any meaningful way to comply with your Executive Order 14008 on Climate and Environmental Justice in the evaluation of this nuclear waste storage proposal: the draft and final EIS have done nothing to identify and evaluate the cumulative history of adverse human health and environmental effects on New Mexico’s vulnerable populations. The failure to quantify specific impacts and health consequences to vulnerable populations in New Mexico that might occur from the various potential accidents and release scenarios considered in the FEIS are two examples of the insufficiency of the evaluation of environmental justice.

New Mexico is already home to contaminated former uranium mining and milling sites on and near tribal lands and legacy contamination at a national laboratory, which has long created risks to public health and the environment in the State of New Mexico. In addition, we are the only state in the country to have taken on the risk associated with disposal of nuclear waste, hosting the Waste Isolation Pilot Plant (WIPP) in southern New Mexico for disposal of transuranic waste. The proposed action threatens minority and low-income populations in New Mexico that have already suffered disproportionately high adverse human health and environment effects from nuclear energy and weapons programs of the United States. Yet, nowhere in the NRC process has this been recognized, let alone analyzed.

New Mexico has been doing more than its fair share to address the nation’s nuclear waste at WIPP and Los Alamos National Laboratory and will continue to do so. However, the federal government has a moral and legal responsibility to address storage and disposal of nuclear waste equitably and on the basis of consent. Until this private proposal is evaluated in consent-based framework, I urge you to order the NRC to suspend consideration of this license for Holtec to store nuclear waste in a state which has not consented and whose significant and substantial concerns have consistently been ignored.

Sincerely,



Governor of New Mexico

cc: The Hon. Jennifer Granholm, U.S. Department of Energy Secretary
The Hon. Christopher Hanson, Nuclear Regulatory Commission Chair

¹ <https://westgov.org/resolutions/article/policy-resolution-2022-09-radioactive-materials-management>