

Updates on Resistance against Permian Basin CISFs

Prepared by Kevin Kamps, <https://beyondnuclear.org/>, on July 11, 2023

Since 2016, Interim Storage Partners at Waste Control Specialists in Andrews County, TX (just 0.3 miles from the NM state line near Eunice, above the Ogallala Aquifer, and upstream from the Land of Enchantment) has targeted the Permian for up to 40,000 metric tons (MT) of high-level radioactive waste “consolidated interim storage” (CIS). Similarly, since 2017, Holtec International and the Eddy Lea Energy Alliance have targeted southeast NM with a CIS facility to “temporarily” store up to 173,600 MT of commercial irradiated nuclear fuel. There is currently “just” over 90,000 MT of such waste in the U.S., begging the question, would military wastes also be stored at these CISFs? Would other countries’ wastes?

A broad coalition has resisted these environmentally unjust schemes ever since, including numerous municipal resolutions opposed to the dumps in both states, as well as expressions of opposition by Indigenous Nations, such as the All Pueblo Council of Governors, including regarding the inescapable doubling of transportation risks associated with the CISF schemes. (Why not just ship once, to a scientifically suitable, socially acceptable permanent geological repository?!)

NRC Licensing

The U.S. Nuclear Regulatory Commission (NRC), despite record-breaking numbers of public comments on the subject matter opposing these CISFs during the environmental scoping and impact statement proceedings, approved the ISP license on Sept. 13, 2021, and Holtec’s on May 9, 2023.

Lack of Consent-Based Siting

Both states have expressed their adamant non-consent to both dumps. Texas, through a near-unanimous bipartisan vote in its state legislature, prohibited storage and disposal of imported highly radioactive wastes days before NRC’s rubber-stamp. New Mexico’s state ban was passed by the state legislature on March 17, 2023. The signatures of Republican Governor Greg Abbott in TX, and Democratic Governor Michelle Lujan Grisham in NM, enacting these laws, reflects the bipartisan nature of the opposition to these CISFs.

Federal Court Appeals

After many years of hard fought but unsuccessful resistance in NRC licensing proceedings, the fight has moved to federal appeals courts. Both states have filed such appeals against both CISFs. So too has a broad coalition of environmental and EJ groups from NM, TX, and across the country, including both local state chapters of the Sierra Club, as well as SEED Coalition in Austin, and DNA (formerly NISG) in Albuquerque. Fasken Land and Minerals, and Permian Basin Land and Royalty Owners, have also filed federal appeals.

All appeals against ISP have been rejected, save for Fasken/PBLRO and the State of TX’s — the 5th Circuit Court of Appeals in New Orleans has yet to rule, after oral arguments were held in Sept., 2021, Appeals against Holtec/ELEA’s NRC license are now underway, after being held in abeyance for several long years. The environmental and EJ coalition’s Holtec appeals are before the D.C. Circuit. TX and Fasken/PBLRO’s appeals against Holtec are before

(Continued over)

the 5th Circuit in New Orleans. The State of NM's federal appeal against Holtec is before the 10th Circuit in Denver.

Congress

In the U.S. Congress, bipartisan Members from both states continue to oppose a radical proposed change to law that would facilitate the opening of CISFs — the repeal of the prohibition, under the Nuclear Waste Policy Act of 1982, as Amended, on the U.S. Department of Energy from taking title to/ownership of commercial high-level radioactive wastes at an interim site, in the absence of a licensed permanent geologic repository. This precaution was put into the law by states of relatively small population (and thus congressional representation), like New Mexico, to guard against the risk of “interim” storage being abandoned as de facto permanent surface disposal.

TX and NM Congress Members also continue attempting to prevent federal funds from being spent on “private” CISFs, such as ISP and Holtec's. But, year after year, Congress continues appropriating many tens of millions of dollars, to promote “consent-based siting” for federal CISFs. DOE has gone so far as to award Holtec \$2 million as a “team lead” for one such CISF promotional consortium, even though the company is violating NM's consent with its proposed “private” CISF. Equally Orwellian, DOE continues to frame its initiative as one of “equity” and “EJ,” as if dumping highly radioactive wastes on low-income, and/or Black, Indigenous, People of Color (BIPOC) communities, and/or a majority minority state like New Mexico, is a good, environmentally just thing! It is not!

WHAT YOU CAN DO to help resist the CISFs targeting the Permian Basin!

Please do one or more of the following: Contact these NM state officials, thank them for all they've done to block the Holtec CISF, and urge them to continue fighting: Governor Michelle Lujan Grisham; Attorney General Raúl Torrez; Commissioner of Public Lands Stephanie Garcia Richard; Environment Department Cabinet Secretary James Kenney.

Contact your state representative and state senator. Look up, or ask them, how they voted on SB53, the bill to block storage and/or disposal of high-level radioactive waste in NM unless the state consents. If they voted in favor, thank them, and urge them to continue their opposition to Holtec's CISF. If they voted against SB53, urge them to reconsider their position. Even if they are not your legislator, please thank State Senator Jeff Steinborn (Democrat, District 36), State Representative Matthew McQueen (Democrat, District 50), State Rep. Debra Sariñana (Democrat, District 21), and State Rep. Patricia Roybal Caballero (Democrat, District 13), the sponsors of SB53, for their leadership, and urge them to keep fighting Holtec's CISF at every turn. Similarly, thank Speaker of the House, State Rep. Javier Martínez, for his leadership in the passage of SB53.

Contact your U.S. Representative, and both your U.S. Senators. Thank them for what they've done to block Holtec's CISF, and urge them to do all they can in Congress to stop it once and for all.

Also at the federal level, contact the President, Energy Secretary, and Interior Secretary. Urge them to do all they can to stop the targeting of NM by so-called “private” CISFs like Holtec's, as well as federal “consent-based siting” CISFs.

Educate and activate friends, family, neighbors, etc. on this issue. Thank you!