

Slide 1:

Hello. I'm Kevin Kamps. I serve as radioactive waste specialist at Beyond Nuclear, headquartered near Washington, DC.

Slide 2:

I'll present an overview of consolidated interim storage facilities (CISFs) in the US. CISFs became "Plan B," after President Obama declared the repository for highly radioactive waste (HRW) disposal "unworkable," effectively cancelling the Yucca Mountain Project in Nevada. The good news: we have stopped many CISFs in the past. We're currently battling two more. But the future looks daunting: the nuclear industry and US Department of Energy (DOE) propose more CISFs. I'll discuss reactions — by targeted localities, "host" states, Indigenous nations, Congress, environmentalists, and regions of our country. (Thankfully, the next presenter, Sierra Club's Camilla Feibelman, will provide valuable insights about the New Mexico aspects.)

Slide 3:

Past victories include: at Yucca itself in 2000; against DOE's Nuclear Waste Negotiator from 1987-92, targeting Indigenous nations; Private Fuel Storage, targeting Mescalero Apache in New Mexico, and Skull Valley Goshutes in Utah, 1992-2012; and DOE's Global Nuclear Energy Partnership, 2006-9.

Slide 4:

Yucca was singled out for the repository in 1987 with enactment of the "Screw Nevada" bill. But much less known is Yucca was also targeted for a CISF, an attempt to also end opposition to the disposal dump. In 2000, CIS was known as Monitored Retrievable Storage (MRS). Yucca is Western Shoshone land, acknowledged by the US government in an 1863 "peace and friendship" treaty. Traditional Shoshone ceremonies, including sweat lodges, still take place at their sacred Yucca Mountain.

Slide 5:

Who supported the Yucca CISF? The same people, for the same reasons, as supported permanent disposal there: Nye County, the host municipality; DOE, which would operate the dumps; the industry, which could offload liability for HRW; and the Nuclear Regulatory Commission (NRC), which would license it. That is, the "nuclear establishment." Why would the local municipality support the dumps? The Nevada nuclear weapons Test Site (NTS) is very near Yucca. The federal government has viewed the area as expendable, a radioactive wasteland, since the first nuclear detonation there in 1951. Not only did the sparse, rural population come, over decades, to depend on jobs and revenues from NTS, they later sought to deepen their addiction to nuclear money by expanding into HRW storage and disposal, despite the risks. They were blinded by radioactive dollar signs, making a deal with the devil, "Faustian fission." The nuclear establishment has continued targeting low-income, rural, and BIPOC (Black, Indigenous, People of Color) communities, including for CISFs.

Slide 6:

Yucca CISF opponents also resisted the repository: the Western Shoshone, State of Nevada, environmentalists, and President Clinton, allied with Nevada congressional Democrats. For most Nevadans, suffering as Downwinders from decades of nuclear weapons testing was warning enough against the Yucca dump from the start. Here's Ian Zabarte, lead Western

Shoshone watch-dog on NTS and Yucca for four decades. He's shown at Vermont Yankee, an atomic reactor he helped close.

Slide 7:

In 2000, majorities in both the US House of Representatives and Senate passed legislation to open Yucca's CISF. But President Clinton vetoed the bill. The Senate attempted to override Clinton's veto, requiring a two-thirds majority, but fell one vote short. That's how close approval for both Yucca dumps came to happening. (Ironically, news coverage of the Tokai-mura disaster on September 30, 1999 caused dump proponents to delay voting, providing us precious additional organizing time to sustain Clinton's veto.)

Slide 8:

The George W. Bush administration shamefully continued with plans for the Yucca repository, enabled by majority votes in Congress in 2002. Five of more than a thousand environmental groups opposing Yucca organized a federal appeal, which Nevada joined. Our court victory forced the US Environmental Protection Agency (EPA) back to the drawing board on public health protection downstream of Yucca. Instead of regulations ending at 10,000 years, EPA was forced to acknowledge a million years of hazard associated with HRW. Our legal victory slowed the dump for years, long enough for major political breakthroughs to happen. US Senator Harry Reid of Nevada became Democratic Leader. He ended Yucca's funding. By 2008, Reid supported Barack Obama's successful campaign for the White House. President Obama then effectively cancelled Yucca, although congressional Republicans have continued trying to resurrect it.

Slide 9:

From 1987-92, DOE's Nuclear Waste Negotiator proposed CISFs, mostly targeting dozens of Indigenous reservations in the western US. But the radioactively racist schemes were blocked, by the likes of Western Shoshone spiritual leader Corbin Harney, and Grace Thorpe of the Sak and Fox Nation in Oklahoma. Thorpe, founder of the National Environmental Coalition of Native Americans, was an emeritus board member of Nuclear Information and Resource Service when I worked there. I once asked her why she became so anti-nuclear so fast, after DOE targeted her reservation. Her one word answer was "Nagasaki." As a US Army service member in World War Two, she was sent there soon after after the atomic bombing. Harney and Thorpe travelled the US, warning Indigenous communities about CISFs. They not only helped stop the dumps, but even got the Nuclear Waste Negotiator fired!

Slide 10:

But industry picked up where DOE left off. Private Fuel Storage (PFS), a consortium of nuclear reactor owners, first targeted Mescalero Apache Reservation in New Mexico. Mescalero was downwind from the "Trinity" atomic blast on July 16, 1945, the test of the Nagasaki plutonium bomb design. Rufina Marie Laws and other Mescalero traditionals blocked that scheme. PFS then moved to Skull Valley Goshutes in Utah. But Margene Bullcreek and other Goshute environmentalists blocked it, after a bitter, 25-year fight.

Slide 11:

President Bush's Global Nuclear Energy Partnership (GNEP, 2006-9) targeted DOE and other sites, for not only CISFs, but also "advanced reactors" and even reprocessing. This included Eddy-Lea Energy Alliance's (ELEA) GNEP "Study Site" in New Mexico. ELEA is a quasi-governmental economic development entity, including Eddy and Lea Counties, and the cities,

Carlsbad and Hobbs. A nationwide grassroots coalition resisted, including non-proliferation organizations concerned about reprocessing's nuclear weapons risks. GNEP was terminated by President Obama, echoing a reprocessing struggle dating back to President Carter. Democrats like Carter, Clinton, and Obama have opposed reprocessing; Republicans like Reagan and Bush have supported it. Despite GNEP's failure (see the toppled sign, riddled with bullet holes, still there!), ELEA teamed up with Holtec more than a decade ago to promote the CISF.

Slide 12:

The CISFs we've fought for a decade include Interim Storage Partners' (ISP) in Texas, and Holtec's in New Mexico. The two closely co-located dumps are in the Permian Basin, as is the Waste Isolation Pilot Plant (WIPP), a geologic repository for transuranics-contaminated nuclear weapons waste. The Permian is the most active oil/gas production region in North America, and perhaps the world. The United Nation's International Atomic Energy Agency has warned against co-locating HRW storage/disposal in fossil fuel extraction areas.

Slide 13:

This shows an artist's rendition of ISP, for 40,000 metric tons of highly radioactive waste. ISP is immediately adjacent to Waste Control Specialists (WCS), a national "low-level" radioactive waste dump. WCS is located above the Ogallala Aquifer, North America's largest. It extends from the Permian to the Ogallala Lakota Reservation in South Dakota, across eight states on the Great Plains, providing drinking water and agricultural irrigation for millions in an arid region. ISP is just 0.5 km from the New Mexico border.

Slide 14:

Holtec's CISF could become the world's largest nuclear dump. It is only 65 km west of ISP. Holtec CEO Krishna Singh has said he regards ISP not as competition, but as complementary. The two CISFs would hold up to 213,600 metric tons of HRW, compared to less than 100,000 metric tons currently in the US. Holtec's site is also just 25 km from WIPP. Originally proposed more than 50 years ago, WIPP opened in 1999, despite determined resistance. Since the nuclear industry got away with WIPP in the Permian, ISP and Holtec figured they too could get away with CISFs nearby.

Slide 15:

New Mexico is majority minority: Latinx and Indigenous residents comprise more than 50% of the population. It has suffered worsening nuclear impacts since Oppenheimer opened Los Alamos during the Manhattan Project in 1943. It has suffered fossil fuel impacts for more than a century, never more than now. The CISFs would increase burdens on Environmental Justice (EJ) communities in both New Mexico and Texas.

Slide 16:

A solid decade of grassroots EJ resistance to both CISFs has been inspiring. An example: records were broken by the number of public comments opposing the dumps, submitted to NRC during its environmental reviews. This despite NRC ramming through the proceedings during the pandemic, ignoring our protests. We nonetheless generated many tens of thousands of public comments *in each proceeding!*

Slide 17:

Our legal resistance has also been tireless. Accounting for NRC licensing, and subsequent federal appeals, our interventions have persisted for more than ten years, including our opposition to CISFs at DOE's Blue Ribbon Commission for America's Nuclear Future (2010-2012).

Environmental coalition appeals have been at the U.S. Circuit Court in Washington, DC. Beyond Nuclear is represented by attorneys Diane Curran and Mindy Goldstein. Our legal standing declarants are mostly family cattle ranchers who live and work very near the proposed CISFs. Terry Lodge represents Don't Waste Michigan and others, a national grassroots coalition. Wally Taylor represents Sierra Club, the oldest and largest US environmental group.

Our strange bedfellow allies, fossil fuel and ranching company/association Fasken Land and Minerals/Permian Basin Land and Royalty Owners, and the State of Texas, appealed NRC's license approvals at the 5th Circuit Court in New Orleans, Louisiana.

The State of New Mexico appealed to the 10th Circuit in Denver, Colorado.

Slide 18:

What laws are the bases for our appeals? Beyond Nuclear has led Nuclear Waste Policy Act appeals, the primary law on highly radioactive waste management/storage/disposal; and the associated Administrative Procedure Act, which governs the process by which federal agencies develop and issue regulations. The remainder of our coalition has generated dozens of contentions in the NRC licensing proceedings, and defended them in the appeals, citing such laws as the Atomic Energy Act (the basis for commercial nuclear industry safety and licensing requirements), as well as the National Environmental Policy Act, which requires a "hard look" by agencies before major federal actions are undertaken, with rights to public participation and comment.

Slide 19:

What have been the results of our appeals? The 5th Circuit Court in New Orleans, starting 13 months ago, has consistently ruled in favor of our allies, Fasken/PBLRO and Texas, vacating/invalidating/nullifying NRC's licenses for both CISFs. Last month, a DC Circuit panel ruled against all opposition to Holtec's CISF, just as happened there re: ISP in January 2023. The 10th Circuit in Denver has consistently rejected all of New Mexico's appeals.

Slide 20:

What is pending? NRC, the US Department of Justice, both dump companies, and their supporters (such as Nuclear Energy Institute, industry's lobbying and public relations association) have appealed the 5th Circuit's rulings, citing conflicts with the DC and 10th Circuits.

The Supreme Court of the US (SCOTUS) reconvenes in a few days. It could soon decide whether to hear these appeals. If SCOTUS denies *certiorari*, the 5th Circuit's rulings stand. If SCOTUS grants *cert.*, our side will have to defend the 5th Circuit victory.

Opponents of Holtec's CISF, including Beyond Nuclear, have 45 days to appeal the DC Circuit's recent ruling.

## Slide 21

A legal victory by our side must be defended on Capitol Hill, or else nuclear lobbyists could persuade Congress to simply change the law! Such shocking reversals have happened, such as the 2004 gutting of the Nuclear Waste Policy Act, allowing abandoning highly radioactive sludges, risking future catastrophe downstream.

## Slide 22

Camilla will discuss these victories. But note the breadth of our coalition, from Texas's majority conservative Republican state government, to New Mexico's majority liberal Democratic. Although dump proponents could challenge the validity of such state laws in the future, they currently serve as another obstacle to these dumps. The laws show the states do not consent. Similarly, an example of regional opposition to CISFs was a policy statement by the 19-state Western Governors Association, demanding state consent be required for CISFs.

## Slide 23

"Mobile Chernobyl" was our rallying cry against Yucca, as was "When it comes to radioactive waste transportation, *we all live in Nevada.*" Educating Americans most states would be impacted by Yucca-bound HRW shipments by truck, train, and/or barge was effective.

Mobile Chernobyl still applies. CISFs would multiply transport risks, whether accidents or attacks: shipments from atomic reactors to CISFs would be followed by shipments to a permanent repository, yet to be sited. This would add millions of shipment miles.

## Slide 24

Nevada's Agency for Nuclear Projects, as a key part of its opposition to Yucca, has done trailblazing research on HRW transportation risks for decades. As shown by this national map, certain states not hosting reactors, such as Indiana, Wyoming, and Utah, would nonetheless be hard hit by waste shipments originating elsewhere, bound for Yucca. 75% of reactor waste is east of the Mississippi River; 90% is in the eastern half of the US. There is a long history of East attempting to dump on West in our country.

## Slide 25

ISP has obscured shipping routes to Texas, by stating any mainline railway could be used — without specifying which ones!

## Slide 26

Holtec has similarly concealed shipping routes. Its "bounding analysis" only accounts for 4 of 135 atomic reactors across the US. Americans might breathe a sigh of relief, thinking their state is spared CISF-bound transport risks. But routes from another 131 reactors could pass nearby.

## Slide 27

The Western Interstate Energy Board (representing 11 states) did a public service by analyzing the most likely rail routes for in-bound shipments to ISP (Holtec's routes would be very similar, nearly identical, given how closely the CISFs would be co-located). WIEB submitted this map to NRC in November 2020 as public comment on the ISP Draft Environmental Impact Statement.

#### Slide 28

EJ is also relevant to HRW transport. Mustafa Ali, who directed EJ at Obama's EPA, has long warned about EJ impacts of HRW transport on low-income and/or Black, Indigenous, People of Color communities. Our allies have used EPA EJ data to analyze HRW transport routes in Texas. They found that along one stretch, from El Paso to Monahans, 101,000 residents are 94% minority, mostly Latinx; 51% speak Spanish well, but not English, meaning NRC licensing proceedings impacting their lives were conducted in a language foreign to them!

#### Slide 29

The nuclear establishment does not want Americans to know the following about CISFs: transport routes/risks; they are likely preludes to reprocessing; "interim storage" risks becoming de facto permanent surface abandonment—"parking lot dumps"; and bribery of low-income communities is not "consent." DOE's current "consent-based siting" initiative is targeting BIPOC communities, while calling it an *EJ initiative*! Holtec is additionally targeting Arkansas, another CISF has targeted California, and DOE has many more sites in mind!

#### Slide 30

What do we prefer? Stop making highly radioactive waste; transition to carbon-free and nuclear-free electricity generation. As an interim measure, require hardened on-site storage for already existing HRW. And require "Stringent Criteria for a Repository."