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Office of Administration
ATTN: Program Management, Announcements and Editing Staff.
Mail Stop: TWFN-7-A60M
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Via email to: Holtec-CISFEIS@nrc.gov
Submitted via website portal at: <http://www.regulations.gov>

Re: Docket ID NRC-2018-0052

To Whom It May Concern:

The Delaware Riverkeeper Network and Green Amendments For The Generations submit this comment jointly to oppose the “Proposed Holtec International (Holtec) license 3 application to construct and operate a consolidated interim storage facility (CISF) for spent 4 nuclear fuel (SNF) and Greater-Than-Class C waste, along with a small quantity of mixed oxide 5 fuel” in southeast New Mexico. This proposal is unsafe and unwise for people, communities and the environment in New Mexico and in those locations from where the waste will be taken. The Nuclear Regulatory Commission needs to focus on a permanent solution for addressing the hazardous nuclear waste that has been created as the result of the agency’s reviews, approvals and oversight. Interim storage is a half measure that needlessly increases the threat of contamination from nuclear waste transport and storage to our environment and communities, which is neither an appropriate, nor a defensible solution.

Licensing the Holtec facility will wrongly pass off the problem of spent nuclear waste to communities in New Mexico. All across the country communities have benefited from the creation of this waste -- and to now put the communities of New Mexico in the sacrifice zone as the repository for this joint problem is simply wrong. New Mexico did not benefit from this waste, and in fact has worked hard to preserve their natural landscapes for their ecological, human health, recreational and economic values -- bringing this waste to New Mexico as proposed puts in jeopardy all of the investment and effort that secured the preservation of important and irreplaceable natural resources.

There are numerous areas where NRC’s draft Environmental Impact Statement falls short and fails to undertake the full consideration of impacts required or envisioned by NEPA and/or necessary to support informed decision making by local, state and federal officials.

GREEN AMENDMENTS FOR THE GENERATIONS
c/o Delaware Riverkeeper Network
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
gaftg@ForTheGenerations.org
www.ForTheGenerations.org

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215) 369-1181
drrn@delawareriverkeeper.org
www.delawareriverkeeper.org

Permitting the Holtec facility without a comprehensive national plan, as required under the NWPA, prevents public participation, as required by NEPA, in all of the locations that will be affected by the national transport of nuclear waste. NRC has tied its hands by limiting scoping to exclude the public's transportation concerns.

A. The Draft EIS fails to consider risks of transportation, community or environmental issues.

- With regards to the risks and impacts of transportation associated with the proposal, the Draft EIS looks to the Yucca Mountain FEIS and SEIS. Referring to the Yucca Mountain FEIS and SEIS for risks of transportation is insufficient, potentially misleading and inappropriate. The Yucca Mountain FEIS and DEIS relied on information from 2008; at this point, in 2020, that data is sorely out of date and cannot be expected to full or fairly represent current conditions. Relying on the outdated Yucca Mountain FEIS and DEIS means the Holtec Draft EIS is not considering current science, traffic patterns, population centers or locations; the ramifications of aging rail infrastructure which is now 12 years older; required improvements for travel routes due to transportation infrastructure or population changes; the most current climate change and pollution science and/or ramifications of the proposed transportation needs of the project, etc.
- The Draft EIS does not acknowledge or address concerns identified in the U.S. Nuclear Waste Technical Review Board's Report to Congress, *Preparing for Nuclear Waste Transportation, Technical Issues that Need to Be Addressed in Preparing for a Nationwide Effort to Transport Spent Nuclear Fuel and High-Level Radioactive Waste*, September 2019. Report available: https://www.nwtrb.gov/docs/default-source/reports/nwtrb_nuclearwastetransport_508.pdf?sfvrsn=6
 - The Report states “transporting large quantities of SNF and HLW has not been done and will require significant planning and coordination by DOE, the agency responsible for waste transportation under the NWPA.”
 - The Report discusses the Holtec facility and states the following concerns: “Based, in part, on the 2013 strategy published by DOE, two private entities, with proposed sites in Texas and New Mexico, began to develop consolidated interim storage facilities to store commercial SNF. Both entities submitted license applications to the NRC to build and operate SNF storage facilities; as of April 2019, the NRC is reviewing the applications. Several issues must be addressed before the proposed consolidated interim storage facilities can move beyond the design and licensing phase. These issues include a lack of clarity on the funding source for construction of the projects, responsibility for transporting the SNF, future ownership of the SNF, and whether Congress will approve DOE's involvement with the projects.”
- The Draft EIS fails to discuss future ownership of the SNF and responsibility for transporting the SNF and whether Congress will approve DOE's involvement with the projects.
- The Draft EIS fails to consider the foreseeable expansion and/or life extension requests of aged and aging nuclear plants once the burden of waste storage has been lifted. Seeking and securing life extensions has become common practice amongst nuclear power plants. These extensions can have significant consequences. They not only increase the amount of nuclear waste that needs to be addressed, but they can also inflict significant environmental harm. For example, the PSEG Salem Nuclear Generating station located on Artificial Island in Salem County, NJ kills over 14

billion fish, larvae and eggs every year due to the outdated once through cooling technology it uses. Once relieved of the obligation to store growing amounts of nuclear waste, it is foreseeable that PSEG would seek an additional life extension for Salem resulting in additional massive fish kills every year. A wide variety of species including endangered sturgeon, as well as a variety of recreational and commercial interests dependent on the Delaware's aquatic life populations are harmed by Salem's operations. A life extension for Salem will increase and extend the significant environmental and economic burdens on the Delaware River system and communities inflicted by Salem. Impacts such as those at the PSEG Salem Nuclear Generating Station may occur at other nuclear plants and these foreseeable impacts are not evaluated; in fact, the Draft EIS does not even identify which facilities will be sending their SNF to the Holtec facility.

- During the public hearings there was testimony that said the assessment of transportation safety was based on modelling and simulations rather than real world assessments that could have and should have been considered. We echo the concern that there is too much reliance on modelling, that there is data available to give a more robust and accurate consideration of the safety hazards posed by transportation of the waste across the country, and that the assessments need to be more rigorous given the hazardous ramifications of an accident or incident.
- The Draft EIS does not identify the federal, state, and local regulations that Holtec must comply with to transport the SNF. Further, the Draft EIS does not explain how it will evaluate and review transportation routes to ensure the infrastructure along transportation routes is acceptable for the safe transportation of SNF. The Draft EIS fails to describe applicable preparations and planning of Federal, State, and local governments and by the railroad industry, which includes considerations of equipment, infrastructure, training, and funding.
- The Draft EIS fails to consider the impact to, and threats of harm to, all of the communities that are along the transportation routes. The storage of nuclear waste at Holtec is the final step in a mass mobilization and transport of spent nuclear waste that will be moving massive amounts of manmade radioactive across the nation to the Holtec facility in New Mexico. The risk of accidents is not adequately assessed in the Draft EIS and communities along the route most at risk have not been given notice or opportunity to comment. The EIS does not adequately address, notify or get input from people all along the route. The EIS process failed to provide notice and opportunity for comment to all the communities along the transportation route that could/would be impacted by the transport of spent nuclear fuel from their community/through their region. For example, we along the Delaware River where PSEG's Salem 1 & 2 and Hope Creek nuclear power plants are located, which will be a source of some material to be transported to Holtec, had no notice about this project until we heard about it from communities we were working with in New Mexico. NRC undertook no outreach efforts to our Delaware River communities, there was no public notice or hearing or invitation for comment despite the fact that we would be among those impacted by the transportation of the material through our communities and could be affected by a foreseeable life extension request as noted above.

B. The Draft EIS fails to adequately consider the risk of contamination to the Permian Basin

- Since there is no permanent storage site identified or currently being studied, storage at the Holtec facility will be defacto permanent storage with a disproportionate risk on New Mexico to store U.S. nuclear waste. There are documented underground conduits to the Permian Basin. This is a drinking water source. The Draft EIS does not assess the risk from a leak and groundwater

contamination and does not assess the cost of cleanup. The Draft EIS relies on surface water monitoring and fails to require underground monitoring for impacts to groundwater, despite a known, identified, serious and foreseeable risk to groundwater.

- The EPA recommended that the EIS describe the original (natural) drainage patterns in the proposed CISF area, as well as the potential impacts to drainage patterns of the area, and identify whether any areas are within a 50- or 100-year floodplain. EPA also pointed out that, in accordance with the Safe Drinking Water Act, the EIS should describe groundwater conditions, assess potential impacts to groundwater quality and quantity, and identify mitigation measures to reduce adverse impacts to groundwater quality. EPA recommended that the EIS discuss potential Federal requirements and permitting to ensure protection of water resources at the proposed CISF. NMED recommended similar studies for the hydrological relationship between Laguna Plata and Laguna Gatuna and the zone of groundwater accumulation for the Cenozoic alluvium above the Dockum clays. These issues are not considered nor addressed by the Draft EIS.
 - Further, the Draft EIS relies on an insufficient number of boreholes and monitoring wells to accurately characterize the lithology, hydrology, and groundwater characteristics below the CISF.
 - The Draft EIS also does not acknowledge the necessity of establishing background constituent concentrations for the multiple aquifers below the CISF. .
- C. The Department of Transportation is not identified as a cooperating agency in the NEPA review
- The Department of Transportation should be a cooperating agency during the NEPA process, since DOT will approve of the transportation routes used to transport the nuclear waste across the county.
- D. The Draft EIS does not identify who will take title to the nuclear waste
- The Draft EIS fails to identify who will have the title to the nuclear waste during transportation and storage. It is unclear whether the SNF will be managed by DOE, and if so, DOE should be a cooperating agency. This is a fundamental piece of information that should be disclosed to the public. In the event that Holtec were to become insolvent or an accident were to occur, the Draft EIS should clearly explain who would be responsible for the nuclear waste. Any accident could foreseeably cause catastrophic environmental, community and human health harms, and failure to discuss the responsible party in the event of an accident is by definition an insufficient environmental analysis. The ownership and risk allocation between responsible parties should be identified in the Draft EIS as part of the environmental risk analysis.
- E. The Draft EIS fails to consider cumulative impacts of other nuclear facilities in the area
- The Draft EIS concludes that an analysis is not feasible due to completeness issues, even though other facilities are also in the permit and evaluation process. The Draft EIS should analyze what the cumulative impacts are of building these facilities in close proximity.
- F. The Draft EIS fails to consider the impacts of climate change

- The Draft EIS does not analyze the effects that wildfire would have on the ongoing operations of the Holtec facility and what would happen if the facility were to become inaccessible due to wildfire for a period of time. Instead, the Draft EIS focuses on the effects of climate change on drought in New Mexico and identifies that the amount of water needed for the facility is minimal “and water use for spent fuel storage is not expected to cause water-use conflicts.” The Draft EIS recognizes that there is a drought in New Mexico but fails to consider the effects of groundwater contamination when determining that the facility would not cause water-use conflicts. Further, the area is geologically active and this could increase the risk of groundwater contamination to the Permian Basin.
- G. The Draft EIS does not account for local opposition to the project or account for historical environmental racism
- No less than eighteen resolutions have been passed by state legislators banning transportation of nuclear waste. Las Cruces City Council passed a resolution opposing the facility. The Pueblo Council of Governors passed a resolution opposing the facility.
 - The Draft EIS does not discuss environmental racism or the historical context of the nuclear industry in New Mexico. The New Mexico Superfund sites have not been cleaned of the environmental damage already done. “The Jackpile Paguete uranium mine in Laguna Pueblo as well as the United Nuclear Corporation mine, which was responsible for the 1979 Church Rock uranium spill near Red Water Pond Road community, are both Superfund sites, meaning they have not been cleaned up since the sites were closed in the early 1980s.” <https://phys.org/news/2020-08-complicated-history-environmental-racism.html> It is unjust to foist another foreseeable hazard on these communities.

Respectfully submitted,



Maya K. van Rossum
Founder/CEO Green Amendments For The Generations
& Delaware Riverkeeper