



New Mexico State Senate

State Capitol
Santa Fe

SENATOR JEFF STEINBORN

D-Doña Ana-36

P.O. Box 562
Las Cruces, NM 88004

Cell: (575) 635-5615
E-mail: jeff.steinborn@nmlegis.gov

April 3, 2018

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• Radioactive & Hazardous
Materials Committee

The Honorable Hector Balderas
Attorney General of the State of New Mexico
P.O. Drawer 1508
Santa Fe, NM 87504-1508

Dear Attorney General Balderas:

The Nuclear Regulatory Commission has received a license application, Docket Number 72-1051, from Holtec International for the construction of a consolidated interim storage facility in Lea County, New Mexico. The facility is proposed to be located approximately 34 miles west of Hobbs and 32 miles east of Carlsbad.

In its application, Holtec International is seeking authorization to possess and store 500 canisters containing 5,000 metric tons of uranium at the proposed site, including spent uranium-based fuel from commercial nuclear reactors and a small quantity of spent mixed-oxide fuel. If authorization is provided for the initial 500 canisters, Holtec International anticipates requesting a license amendment for an additional 500 canisters for each of 19 subsequent expansion phases, and the amount of high-level radioactive waste stored could increase up to 100,000 metric tons of uranium.

The Nuclear Regulatory Commission has declared the Holtec application complete and has launched a 60-day scoping period, from March 30 to May 29, to receive public comments. Given the significant public policy issues associated with the transport and storage of radioactive waste in Lea County, key information about our state's preparedness and exposure needs to be vigorously evaluated and discussed. The health, safety and financial well-being of people and businesses in New Mexico need to be given the highest priority in evaluating Holtec's proposal. Additionally, it is essential to transparently discuss these policy ramifications now to allow New Mexicans the opportunity to participate in the public comment period.

In order to provide input into the federal process, there are legal issues and considerations that need to be understood. Pursuant to Section 8-5-2 NMSA 1978, I request your opinion on the following questions of law.

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1. Are consolidated interim storage facilities authorized under the federal Nuclear Waste Policy Act of 1982? If not, upon what legal basis may the Nuclear Regulatory Commission issue a license to Holtec International to receive, acquire and possess power reactor spent fuel and other associated radioactive materials and store them at the proposed site?

2. What legal recourse is available to the state or private citizen stakeholders to prevent the Nuclear Regulatory Commission from licensing the proposed storage site if it does not have the legal authority to do so?

3. If the power reactor spent fuel and other associated radioactive materials stored at the proposed site are abandoned by Holtec International or a subsequent contractor, what state or federal laws exist to provide recourse to the state and/or affected communities?

4. Do state or federal laws provide for bonding requirements for the storage of power reactor spent fuel and other associated radioactive materials? What financial assurances are available to New Mexico to protect the state and its communities in the event the site is abandoned?

5. What legal recourse would the state have if consolidated interim storage is allowed in New Mexico but the federal government fails to permit a permanent, high-level waste repository?

6. Who would have legal liability for the materials if the lifespan of the canister is reached and the canisters remain at the proposed storage site in New Mexico?

Given the recently initiated public comment period, I respectfully request a response to these questions expeditiously. It is imperative that these questions be addressed quickly to allow the legislature to perform its oversight role during this limited 60-day public comment period.

Thank you for your attention to this matter.

Sincerely,



JEFF STEINBORN

cc: Members, Radioactive and Hazardous Materials Committee (via email)

JS:clm