

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles E. Schumer
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

November 23, 2020

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi, Minority Leader McCarthy,

Eight years ago, the bipartisan *Blue Ribbon Commission for America's Nuclear Future* (BRC) set out a phased, careful approach to developing both nuclear waste repositories and temporary storage sites, with the process for each strongly linked to ensure storage sites could not become *de facto* repositories. Unfortunately, provisions in both chambers' Energy and Water Appropriations Acts (H.R. 7613 and [S. 0000](#), Sec. 306) have departed from this wise counsel and prioritized consolidated interim storage (CIS) at the expense of a meaningful and workable, consent based, repository program. We ask that these sections be omitted from any final bill.

If Congress attempts to develop the two potential CIS sites in Texas and New Mexico before it has in place a comprehensive reworking of national nuclear waste laws that is scientifically and publicly accepted, we will see only continued failure and contentious litigation that ensures the nation's waste remains exactly where it sits today – in spent fuel pools or in dry storage at operating and decommissioning reactors. Both the governors of New Mexico (Michelle Lujan Grisham, D) and Texas (Greg Abbott, R) have made their explicit objections to becoming the *de facto* storage sites for the nation's nuclear waste.¹

Consolidated storage has already failed in Utah, where Private Fuel Storage is licensed but will never receive waste. And previously, the Nuclear Waste Negotiator tried unsuccessfully to find storage sites. As waste remains where it is, more attention should be paid to improved on-site storage, which is a better use of funding than the CIS sites.

The two provisions regarding CIS differ significantly and each have specific flaws. In the Senate bill, Sec. 306 would create a pilot program to *"license, construct, and operate 1 or more Federal consolidated storage facilities to provide interim storage as needed for spent nuclear fuel and high-level radioactive nuclear fuel located on sites without an operating nuclear reactor."* While this section includes a nod to needed consent, it is still disconnected from the repository program.

¹ See Attachments 1 and 2, opposition letters from the governors of New Mexico (Michelle Lujan Grisham, D) and Texas (Greg Abbott, R).

Taking this kind of expedient, short term action, as noted by former Chairman Bingaman and many others, will almost surely result in the creation of a *de facto*, and above-ground, permanent resting place for the nation's spent fuel. This is the precise opposite of what is called for by law and what has been a national consensus for decades. An authorization provision with this drastic of a change in existing authority has no place in an appropriations bill.

The House provision found on pg. 130 of H. Rept. 116-449 would provide \$25 million for interim storage facilities, including "*Within available funds in this account for interim storage, the Department is directed to move forward under existing authority to identify a site for a federal interim storage facility. The Department is further directed to use a consent-based approach when undertaking these activities.*" Just as the Senate is proposing, the House language includes a nod to the concept of affirmative consent, but again as with the Senate bill, fails to acknowledge the reality of numerous states, over several decades, demonstrating repeated and clear objections (thus, that there is no chance for consent) and fails to protect against any potential interim site becoming a *de facto* permanent repository. This approach repeats the mistakes of the process yet again, placing the burden on states that, as noted above, have already indicated they will not consent to receiving waste.

Congress should discard this approach and embrace the development of a science-based and consent-based repository program that acknowledges the significant institutional challenges facing spent fuel storage and disposal. Instead of pressing forward with more plans sure to invite rancor, Congress must create a transparent, equitable process incorporating strong public health standards that are insulated from efforts to weaken those same standards when expedient to license a facility. Such a process can conclude with the licensing and operation of a suitable repository site (or sites) that can be effectively regulated under long effective environmental laws. Indeed, the House Select Committee on Climate, along with supporting consent-based siting, urged the creation of a task force to examine just such a course. Specifically, the Select Committee recommended the establishment of a task force comprised of federal, state, local, and tribal officials that would study and report its findings to Congress on the implications of amending the Atomic Energy Act to remove exemptions from environmental laws for spent fuel and high-level waste, while maintaining federal minimum standards ([House Select Committee Rpt.](#) at pp. 48-49).

Advancing interim storage in an appropriations bill solves none of these problems, short circuits the careful course suggested by the House Select Committee, will have lasting, problematic consequences for our nuclear waste program and likely derail any chance for the meaningful reforms and efforts to find an ultimate solution for nuclear waste.

Again, we respectfully request that both of these provisions be omitted from any final bill.

Sincerely,

Alliance for Environmental Strategies
Alliance to Halt Fermi-3
Atlanta Grandmothers for Peace
Beyond Nuclear
C-10 Research & Education Foundation

Cape Downwinders
Chesapeake Physicians for Social Responsibility
Citizen Power, Inc.
Citizens Awareness Network
Citizens for Alternatives to Radioactive Dumping (CARD)
Citizens' Environmental Coalition
Citizens' Resistance at Fermi Two
Clean Water Action
CodePink Golden Gate Chapter
Concerned Citizens for Nuclear Safety
Connecticut Coalition Against Millstone
Council on Intelligent Energy & Conservation Policy (CIECP)
Don't Waste Arizona
Don't Waste Michigan
Energía Mía
Food & Water Action
Hudson River Sloop Clearwater
Indian Point Safe Energy Coalition
League of Conservation Voters
Los Angeles Alliance for Survival
Multicultural Alliance for a Safe Environment
National Nuclear Workers for Justice (NNWJ)
Natural Resources Defense Council
Nevada Nuclear Waste Task Force
New England Coalition on Nuclear Pollution
New Mexico Interfaith Power and Light
North American Water Office
Nuclear Age Peace Foundation
Nuclear Energy Information Service (NEIS)
Nuclear Free Coalition
Nuclear Free World Committee of the Dallas Peace and Justice Center
Nuclear Watch New Mexico
Nukewatch
NYCD 16 Indivisible
Occupy Bergen County (N.J.)
On Behalf of Planet Earth
Partnership for Earth Spirituality
Peace Action Maine
Peace Nick
Physicians for Social Responsibility
Physicians for Social Responsibility – Kansas City
Physicians for Social Responsibility – Los Angeles
Portsmouth/Piketon Residents for Environmental Safety and Security (PRESS)
Proposition One Campaign for a Nuclear-Free Future
Redwood Alliance
ROAR (Religious Organizations Along the River)
Rocky Mountain Peace and Justice Center
San Francisco Bay Physicians for Social Responsibility

Sierra Club
SLO Mothers for Peace
Snake River Alliance
The Peace Farm
Three Mile Island Alert, Inc.
Toledo Coalition for Safe Energy
Tri-Valley CAREs
Union of Concerned Scientists
Vermont Yankee Decommissioning Alliance
Washington Power & Light, Inc
Western New York Environmental Alliance
Women's International League for Peace & Freedom – US Disarm/End Wars Committee

ATTACHMENTS



State of New Mexico

Michelle Lujan Grisham
Governor

July 28, 2020

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

Dear President Trump,

I write to express my opposition to the proposed interim storage of spent nuclear fuel and high-level nuclear waste within the state of New Mexico and in Texas near our border. New Mexico has grave concerns for the unnecessary risk to our citizens and our communities, our first responders, our environment, and to New Mexico's agriculture and natural resource industries.

The Nuclear Regulatory Commission (NRC) is evaluating the issuance of a 40-year license to Holtec International for a Consolidated Interim Storage Facility (CISF) in southeastern New Mexico, as well as a similar facility in West Texas near our New Mexico border. As proposed, the Holtec CISF would store commercial spent nuclear fuel and reactor-related materials greater than low-level radioactive waste. Holtec plans to subsequently request amendments to the license for 19 expansion phases of the proposed CISF (a total of 20 phases), to be completed over the course of 20 years, expanding the proposed facility to eventually store up to 10,000 canisters of spent nuclear fuel.

The proposed CISF poses an unacceptable risk to New Mexicans, who look to southeastern New Mexico as a driver of economic growth in our state. New Mexico's agricultural industry contributes approximately \$3 billion per year to the state's economy, \$300 million of which is generated in Lea and Eddy Counties, where the proposed facility is to be sited.

Further, the Permian Basin, situated in west Texas and southeastern New Mexico, is the largest inland oil and gas reservoir and the most prolific oil and gas producing region in the world. New Mexico's oil and natural gas industry contributed approximately \$2 billion to the state last year. According to the U.S. Energy Information Administration (EIA), Lea County and Eddy County were ranked the second and sixth oil-producing counties in the United States, respectively, in 2019.

Establishing an interim storage facility in this region would be economic malpractice. Any disruption of agricultural or oil and gas activities as a result of a perceived or actual nuclear incident would be catastrophic to New Mexico, and any steps toward siting such a project could cause a decrease in investment in two of our state's biggest industries. Further, the mere presence of such a facility in New Mexico will stymie investments in our "all of the above" energy approach. For those reasons, the New Mexico Cattle Growers' Association, the New Mexico Farm and Livestock Bureau, and the Permian Basin Petroleum Association have all sent me letters opposing high-level waste storage in southeastern New Mexico.

The All Pueblo Council of Governors, representing 20 Governors of New Mexico's Pueblo nations, also opposes an interim storage facility. The All Pueblo Council of Governors raised concerns related to the transport of nuclear material across the country, and highlighted the lack of meaningful consultation with tribal governments on a project that presents unimaginable risks to their communities, environment, and sacred sites. The All Pueblo Council of Governors joins a broad range of federal, state, and local officials in opposing the project. The New Mexico State Land Office, members of New Mexico's Congressional Delegation, and many environmental groups have expressed their opposition. Several local governments, including the City of Albuquerque, the City of Bernalillo, and the City of Las Cruces, have also passed resolutions opposing the project.

I am also concerned about the financial burden the CISF would place on the state and local communities. Transporting spent nuclear fuel across the nation and New Mexico is complex and extremely dangerous. Safe transportation of spent nuclear fuel requires both well-maintained infrastructure and highly specialized emergency response equipment and personnel that can respond quickly to an incident at the facility or on transit routes. Routes have to be agreed upon, weight capacity limits for existing rail systems need to be addressed, local first responders (emergency and medical) across the country and in New Mexico have to be trained, and critical infrastructure and equipment need to be designed and deployed. Some spent nuclear fuel in storage is not fit for transport, yet the Holtec CISF would be licensed for up to 120 years with its maximum buildout anticipated to include all the spent nuclear fuel inventory across the nation.

The proposed CISF site is geologically unsuitable. Holtec proposes to bury highly radioactive and toxic spent nuclear fuel to a depth of only 50 feet in an area that is underlain by concerns for sinkhole developments and shallow groundwater, a precious resource in this state. As early as the 1950s, the National Academy of Sciences recommended disposal of long-lived radioactive wastes in deep, geologically stable formations. Holtec's proposed CISF site does not provide deep geologic isolation for indefinite spent nuclear fuel storage, and the proposed site is unsuitable for spent nuclear fuel storage over a period of decades. The design life for the storage facility and casks, canisters, and assemblies is 80 years. The service life for the spent nuclear fuel storage site is 120 years. At this time, the NRC cannot guarantee that a permanent repository for spent nuclear fuel in the United States will be developed in 40, 80, or 120 years, or that the proposed Holtec CISF will not become a permanent repository. Even 80 years of storage at the Holtec CISF amounts to impacts beyond the lifetimes of everyone involved in this decision.

Additionally, the design considerations for the CISF and related infrastructure offer no specific plans for withstanding earthquakes in the region, which are increasing in both frequency and magnitude, due to long-term effects related to oil and gas operations in the Permian Basin.

Accidents are possible and unacceptably detrimental to the safety of New Mexicans, our economy, and our state. Over time, it is likely that the casks storing spent nuclear fuel and high-level wastes will lose integrity and will require repackaging. Any repackaging of spent nuclear fuel and high-level wastes increases the risk of accidents and radiological health risks. The consequences of a release of radiation due to accidental events (such as fire, flood, earthquakes, ruptures of fuel rods, explosion, lightning, extreme temperatures and more), potential exposure pathways via groundwater, potential acts of terrorism or sabotage, and the risks associated with aging spent nuclear fuel canisters, all pose unacceptable risks to New Mexico's citizens, communities, economic industries, and environment. These severe consequences are completely preventable by not allowing an interim storage facility in New Mexico or nearby in West Texas.

New Mexico's percentages of tribal, minority and low-income populations are significantly greater than those in the United States' general population and those populations have already suffered disproportionately high adverse human health and environmental effects from nuclear energy and weapons programs of the United States. The proposed CISF would join the ranks of uranium mining, nuclear energy and defense-related programs that have long created risks to public health and the environment in the state of New Mexico that are disproportionately greater than such risks to the general population of the United States.

Given that a permanent repository for high-level waste does not exist in the United States and there is no existing plan to build one, any "interim" storage facility will be an indefinite storage facility, and the risks for New Mexicans, our natural resources and our economy are too high. I urge you to join me, along with other state and local officials and the agriculture and oil and gas industries, in opposing the siting of an interim storage facility for high-level nuclear waste in New Mexico or West Texas.

I thank you for your consideration of these concerns and look forward to your reply.

Sincerely,

A handwritten signature in blue ink that reads "Michelle Lujan Grisham". The signature is written in a cursive, flowing style.

Michelle Lujan Grisham
Governor



GOVERNOR GREG ABBOTT

September 30, 2020

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

Thank you for all you do to ensure a prosperous economy and strong energy industry in the United States. I write to express my opposition to the license applications to the Nuclear Regulatory Commission (NRC) for the consolidated interim storage of spent nuclear fuel and high-level waste at proposed sites within the state of Texas and within the state of New Mexico, close to the Texas border. A stable oil and gas industry is essential to the economy, and crucial to the security of our great nation. Allowing the interim storage of spent nuclear fuel and high-level nuclear waste at sites near the largest producing oilfield in the world will compromise the safety of the region.

The proposed facilities would be sited in the Permian Basin Region, which is the largest producing oilfield in the world, surpassing Saudi Arabia's Ghawar Field. There are approximately 250,000 active oil-and-gas wells in Texas' portion of the Permian Basin, and more than 40,000 in New Mexico's portion. In 2019, oil production in the Permian Basin Region exceeded a record 1.5 billion barrels of oil, 80 percent of which were produced in Texas. In 2018, the Permian Basin produced more than 30 percent of total U.S. crude oil and contained more than 40 percent of proved oil reserves. Needless to say, the Permian Basin is a significant economic and natural resource for the entire country, and the proposed storage facilities would place America's recovering economy and energy security at great risk.

The NRC is currently evaluating issuance of a 40-year license to Interim Storage Partners (ISP) for a consolidated interim storage facility in west Texas as well as issuance of a 40-year license to Holtec International for such a facility in southeastern New Mexico. As proposed, the ISP facility would store commercial spent nuclear fuel and reactor-related materials, presenting a radiological risk greater than currently authorized for storage and disposal in Texas. ISP has also indicated it may seek to renew the license for an additional 20 years, which would result in an operating life of 60 years, or until a permanent facility is established.

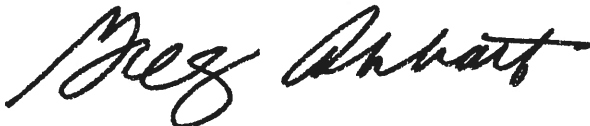
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September 30, 2020
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Congress began working on a permanent solution to storing nuclear waste with the passage of the Nuclear Waste Policy Act in 1982. Today, 38 years later, there is still no permanent storage solution. The proposed sites in Texas and New Mexico do not provide the deep geologic isolation required for permanent storage in order to minimize the risks of accidents, terrorism, or sabotage, which could disrupt the country's energy supply with catastrophic effects on the American economy.

In an April 2019 letter to the Department of Energy and NRC regarding this issue, I expressed my opposition to forcing states with low-level radioactive waste to accept more highly radioactive waste and its accompanying hazards without the consent of the state. I reiterate this concern and my opposition to increasing the amount or concentration of radioactive waste permitted to be disposed of in Texas without state approval.

Because of the many risks associated with these projects, the lack of a permanent storage facility, and the importance of the Permian Basin to the economy and energy security of the country, I respectfully urge you to join me in opposing the siting of an interim storage facility in Texas or in New Mexico. Thank you for your consideration of these concerns and for all you do for our great nation.

Sincerely,

A handwritten signature in black ink that reads "Greg Abbott". The signature is written in a cursive, flowing style.

Greg Abbott
Governor

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