ORDER

On July 16, 2018, the NRC provided notice in the Federal Register of Holtec International’s application to construct and operate a consolidated interim storage facility for spent nuclear fuel.1 Separately, on August 29, 2018, the NRC provided notice in the Federal Register of Interim Storage Partners’ application to construct and operate a consolidated interim storage facility for spent nuclear fuel.2

On September 14, 2018, Beyond Nuclear, Fasken Land and Minerals, and Permian Basin Land and Royalty Owners filed motions to dismiss both the Holtec and Interim Storage Partners applications.3 These groups argue that the NRC cannot, as a threshold matter, issue

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3 Beyond Nuclear filed its own motion to dismiss. Beyond Nuclear, Inc.’s Motion to Dismiss Licensing Proceedings for Hi-Store Consolidated Interim Storage Facility and WCS Consolidated Interim Storage Facility for Violation of the Nuclear Waste Policy Act (Sept. 14,
licenses to Holtec or Interim Storage Partners because both applications are contrary to the Nuclear Waste Policy Act (NWPA). Specifically, the groups argue that both applications contemplate the storage of Department of Energy-titled spent fuel in violation of various NWPA provisions.

The NRC’s regulations allow interested persons to file petitions to intervene and requests for hearing in which they can raise concerns regarding a particular license application. These regulations do not, however, provide for the filing of threshold “motions to dismiss” a license application; instead, interested persons must file petitions to intervene and be granted a hearing. I therefore deny both motions to dismiss on procedural grounds, without prejudice to the underlying merits of the legal arguments embedded within the motions.

Beyond Nuclear also filed hearing petitions in the Holtec and Interim Storage Partners proceedings that incorporated by reference the NWPA arguments that it raised in its motion to dismiss and identified those arguments as proposed contentions. I am separately referring these hearing requests—as well as other hearing requests challenging the applications—to the Atomic Safety and Licensing Board Panel (ASLBP) for the establishment of a Board to consider all hearing requests in accordance with the hearing procedures set forth in 10 C.F.R. §2.309. And, in accordance with 10 C.F.R. § 2.346(i), I am referring the motion from Fasken Land and

2018) (ADAMS Accession No. ML18257A318). Fasken Land and Minerals joined with Permian Basin Land and Royalty Owners to file a motion to dismiss that is substantially similar to Beyond Nuclear’s motion. Motion of Fasken Land and Minerals and Permian Basin Land and Royalty Owners to Dismiss Licensing Proceedings for Hi-Store Consolidated Interim Storage Facility and WCS Consolidated Interim Storage Facility (Sept. 14, 2018) (ML18257A330). Both the NRC Staff and respective applicants filed oppositions to the motions, and Beyond Nuclear, Fasken Land and Minerals, and Permian Basin Land and Royalty Owners then filed replies.

Minerals and Permian Basin Land and Royalty Owners to the ASLBP for consideration under § 2.309.

This Order is issued under my authority in 10 C.F.R. § 2.346(c), (g), (i), and (j).

IT IS SO ORDERED.

For the Commission

NRC SEAL /RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 29th day of October 2018
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

HOLTEC INTERNATIONAL (HI-STORE Consolidated Interim Storage Facility)

Docket No. 72-1051

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER OF THE SECRETARY have been served upon the following persons by Electronic Information Exchange (EIE).

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, DC 20555-0001
Sarah Ladin, Law Clerk
E-mail: sarah.ladin@nrc.gov
Joseph McManus, Law Clerk
E-mail: joseph.mcmanus@nrc.gov
Taylor A. Mayhall
E-mail: taylor.mayhall@nrc.gov
Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov
Holtec Counsel
Pillsbury Winthrop Shaw Pittman LLP
1200 Seventeenth Street, NW
Washington, DC 20036
Jay Silberg, Esq.
E-mail: jay.silberg@pillsburylaw.com
Timothy J. Walsh, Esq.
E-mail: timothy.walsh@pillsburylaw.com
Anne Leidich, Esq.
E-mail: anne.leidich@pillsburylaw.com
Michael Lepre, Esq.
E-mail: michael.lepre@pillsburylaw.com

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-15 D21
Washington, DC 20555-0001
Patrick Moulding, Esq.
E-mail: patrick.moulding@nrc.gov
Sara B. Kirkwood, Esq.
E-mail: sara.kirkwood@nrc.gov
Mauri Lemoncelli, Esq.
E-mail: mauri.lemoncelli@nrc.gov
Joseph I. Gillespie, Esq.
E-mail: joe.gillespie@nrc.gov
Krupskaya T. Castellon, Paralegal
E-mail: krupskaya.castellon@nrc.gov

Don’t Waste Michigan
316 N. Michigan Street, Suite 520
Toledo, OH 43604-5627
Terry J. Lodge, Esq.
E-mail: tjlodge50@yahoo.com

Sierra Club
4403 1st Avenue SE, Suite 402
Cedar Rapids, IA 52402
Wallace L. Taylor, Esq.
E-mail: wtaylor784@aol.com
Docket No. 72-1051

ORDER OF THE SECRETARY

Harmon, Curran, Spielberg & Eisenberg LLP
1725 DeSales Street NW
Suite 500
Washington, DC 20036

Diane Curran, Esq.
E-mail: dcurran@harmoncurran.com

Robert V. Eye Law Office, LLC
4840 Bob Billings Parkway
Lawrence, KS  66049

Robert V. Eye, Esq.
E-mail: bob@kauffmaneye.com

Timothy J. Laughlin, Esq.
E-mail: tijay1300@gmail.com

Turner Environmental Law Clinic
1301 Clifton Road
Atlanta, GA 30322

Mindy Goldstein, Esq.
E-mail: magolds@emory.edu

City of Carlsbad, NM
1024 N. Edward
Carlsbad, NM 88220

Jason G. Shirley
E-mail: jgshirley@cityofcarlsbadnm.com

Eddy County, NM
101 W. Greene Street
Carlsbad, NM

Rick Rudometkin
E-mail: rudometkin@co.eddy.nm.us

Hogan Lovells LLP
555 13th Street NW
Washington, DC 20004

Sachin S. Desai, Esq.
E-mail: sachin.desai@hoganlovells.com

Allison E. Hellreich, Esq.
E-mail: allison.hellreich@hoganlovells.com

Law Office of Nancy L. Simmons
120 Girard Boulevard SE
Albuquerque, NM 87106

Nancy L. Simmons, Esq.
E-mail: nlsstaff@swcp.com

Eddy-Lea Energy Alliance
102 S. Canyon
Carlsbad, NM 88220

John A. Heaton
E-mail: jaheaton1@gmail.com

City of Hobbs, NM
2605 Lovington Highway
Hobbs, NM 88242

Garry A. Buie
E-mail: gabuie52@hotmail.com

Lea County, NM
100 N. Main
Lovington, NM 88260

Jonathan B. Sena
E-mail: jsena@leacounty.net

[Original signed by Brian Newell]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 29th day of October, 2018