

SAMPLE COMMENTS YOU CAN USE TO WRITE YOUR OWN, FOR SUBMISSION TO DOE BY ITS MARCH 4, 2022 DEADLINE

See this post for HOW to submit public comments to DOE < <http://archive.beyondnuclear.org/centralized-storage/2022/1/25/how-to-submit-public-comments-re-does-consent-based-siting-o.html> >

As provided in its Federal Register Notice, DOE has asked a series of questions, re: which it has requested public comment on. Reproduced below are the DOE questions. ***The italicized responses are sample public comments by Beyond Nuclear that you can use to write your own comments.*** Feel free to change them as you see fit, but also feel free to copy them verbatim, and submit them as your own individual and/or organizational comments.

[DOE] Questions for Input [from Federal Register Notice, underlined and in bold below]

Given Congressional appropriations to move forward with interim storage activities, we are seeking input on using a consent-based process to site federal interim storage facilities. We will use responses to this RFI [Request for Information], along with comments received in 2017 on the *Draft Consent-Based Siting Process* ([www.energy.gov/sites/prod/files/2017/01/f34/Draft Consent-Based Siting Process and Siting Considerations.pdf](http://www.energy.gov/sites/prod/files/2017/01/f34/Draft%20Consent-Based%20Siting%20Process%20and%20Siting%20Considerations.pdf)) [sic, the link is broken in DOE's Federal Register Notice], to help develop a consent-based siting process for use in siting federal interim storage facilities, the overall strategy for development and operation of an integrated waste management system, and possibly a funding opportunity.

Respondents to this RFI do not need to address every question, but DOE welcomes input in all of the following areas.

Area 1: Consent-Based Siting Process

1. How should the Department build considerations of social equity and environmental justice into a consent-based siting process?

Social equity and environmental justice should be a top priority for “consent-based siting” of federal, so-called “consolidated interim storage facilities” (CISFs). It is Orwellian to float the offer of jobs, infrastructure development, and potential funding to BIPOC (Black, Indigenous, People of Color) communities, low-income communities, and such communities already disproportionately impacted by hazardous facilities, and portray it as a social equity and environmental justice advancement. BIPOC, low-income, and already heavily polluted communities should not be further disproportionately impacted with CISFs for one of the most hazardous substances ever generated by human society, highly radioactive irradiated nuclear fuel.

As Keith Lewis, environmental director for the Serpent River (Ojibwe) First Nation near Elliot Lake, Ontario, Canada, is quoted as saying in This Is My Homeland: Stories of the Effects of Nuclear Industries by People of the Serpent River First Nation and the North Shore of Lake Huron (edited by Keith Lewis, Lorraine Rekmans, and Anabel Dwyer; published by Serpent River First Nation, 1998 & 2003) — “There is nothing moral about bribing a starving man with money.” He was speaking about the devastation done to his First Nation, and its homeland, by the offer of hazardous uranium mining and milling jobs beginning in 1948, and ending altogether by 1996. The jobs are long since gone, but the devastation goes on.

DOE itself has a most shameful tradition of targeting Native American reservations for CISFs. See the 2005 NIRS/Public Citizen factsheet, “Radioactive Racism.” This shameful history cannot be repeated now or in the future. There is also a pattern of federal CISF schemes turning into private CISF schemes, such as the Private Fuel Storage, LLC CISF, targeted at the Skull Valley Goshutes Indian Reservation in Utah. Currently, private CISFs targeting New Mexico and Texas could effectively become federalized, if DOE pays all costs, including a hefty profit margin to the private owners. However, such an arrangement is illegal. The Nuclear Waste Policy Act of 1982, as Amended, prohibits DOE from taking title to/ownership of commercial irradiated nuclear fuel at a private CISF, unless and until a permanent repository is licensed and operating.

Significantly, New Mexico is a majority minority (Latinx, Indigenous) state, with widespread poverty issues. It is also disproportionately impacted by nuclear and fossil fuel industrial pollution, and other hazardous industries. Such disproportionate impacts are especially acute at the Holtec, NM and Interim Storage Partners, TX CISF sites (the latter just 0.37 miles from the NM state line, and upstream). These disproportionate impacts are compounded by the two CISFs, proposed to “temporarily store” a grand total of 173,600 metric tons of commercial irradiated nuclear fuel and highly radioactive waste (almost twice the amount that currently exists in the U.S.), being located just 40-some miles apart. These proposed CISFs are an attempt to turn the TX/NM borderlands into a high-level radioactive dump sacrifice area.

See Beyond Nuclear’s series of eight fact sheets, expressing opposition to the TX and NM CISF schemes, including to DOE’s illegal potential key involvement in them: < <http://archive.beyondnuclear.org/centralized-storage/2021/09/11/new-beyond-nuclear-fact-sheets-opposing-consolidated-interim.html> >

2. What role should Tribal, State, and local governments and officials play in determining consent for a community to host a federal interim storage facility?

Tribal, State, and Local governments should have free, and fully-informed, consent-based siting rights, including an absolute veto against a federal CISF. That is, Tribal, State, and Local governments should have fully-informed, absolute, binding, and final rights to non-consent. Any DOE, or private, scheme to construct and operate a CISF must cease and desist immediately, once Tribal, State, and/or Local government “hosts” express their non-consent. In addition, consent-based siting rights should extend directly to the citizens/residents of the tribal reservation, state, and/or locality. Free, and fully-informed, consent-based siting rights should extend to citizens/residents, who should also have absolute and final veto rights to block CISFs.

For example, the Saugeen Ojibwe Nation in Ontario, by an 86% to 14% tribal referendum vote in January 2020, blocked the construction and operation of a permanent repository for all of Ontario's so-called "low-," and highly radioactive intermediate-, level radioactive wastes.

Free, and fully-informed, consent rights to consent, or not consent, should be extended as widely as possible, including to the public, not just to elected or appointed government leaders. And such free, fully-informed consent, with absolute and final state veto power, should also extend to permanent repositories, not just CISFs, as the Nevada U.S. congressional delegation has asserted for the past several years, with its re-introduction each congressional session of the Nuclear Waste Informed Consent Act.

3. What benefits or opportunities could encourage local, State, and Tribal governments to consider engaging with the Department as it works to identify federal interim storage sites?

As mentioned above, the idea that jobs, infrastructure development, and/or potential funding, associated with the construction and operation of a CISF, is not compatible with environmental justice and social equity, when the CISF is targeted at BIPOC and/or low-income communities, already heavily polluted by nuclear and/or other hazardous industries. Thus, DOE should cease and desist from targeting BIPOC, low-income, and/or already heavily polluted communities for CISFs. Instead, the benefits and opportunities that DOE should be extending to Local, State, and/or Tribal governments, in line with environmental justice and social equity, should be renewable energy and energy efficiency in nature. DOE should shift resources from the dead end that is promotion of the nuclear power industry and its dirty, dangerous, and expensive agenda, and instead promote renewables, such as wind and solar power, as well as energy efficiency.

In 2012, at a hearing of the U.S. Senate Energy and Natural Resources Committee, focused on legislation to implement the Blue Ribbon Commission on America's Nuclear Future's (BRC) recently released Final Report (published in Jan. 2012), U.S. Senator Risch (R-ID) made a cynical joke. He said that "consent-based siting," recommended by the BRC, really meant financial incentives. Sen. Risch's cynical remark was very telling and revealing. And objectionable. DOE's "consent-based siting" cannot be a thinly veiled Public Relations ploy to "get to yes" on CISFs. Legalized bribery is unacceptable, and in this case an EJ violation. As Keith Lewis of Serpent River First Nation was quoted above, "There is nothing moral about bribing a starving man with money." It would fly in the face of the Biden administration's own rhetoric about prioritization of EJ principles, rhetoric that Energy Secretary Granholm and Principal Deputy Assistant Secretary Huff have themselves invoked.

4. What are barriers or impediments to successful siting of federal interim storage facilities using a consent-based process and how could they be addressed?

As DOE Office of Nuclear Energy's own Blue Ribbon Commission on America's Nuclear Future (BRC) recommended in its Final Report in January 2012, DOE should no longer be in charge of irradiated nuclear fuel and highly radioactive waste management. A major reason for the public's irreparable loss of trust in DOE is its incompetence, or worse, at managing irradiated nuclear fuel and highly radioactive waste over decades past. Hence DOE must be replaced. This recommendation was as much of an overarching priority as the need for "consent-based siting" itself. This of course represents a major barrier and impediment to DOE's attempt to site federal

CISFs, even supposedly using a “consent-based” process. DOE should not be advancing this Request for Information and public comment proceeding. Any such initiatives should be left to the replacement agency, organization, or body, advocated by BRC a decade ago. Why is DOE driving this train, when its very own BRC strongly recommended DOE be replaced?

5. How should the Department work with local communities to establish reasonable expectations and plans concerning the duration of storage at federal interim storage facilities?

As an important part of fully-informed consent-based siting of CISFs, DOE should clearly admit to potential host communities that so-called “interim storage” facilities could easily become de facto permanent surface storage, de facto permanent surface disposal, or parking lot dumps. Given that highly radioactive wastes, such as irradiated nuclear fuel, remain hazardous for at least a million years (as acknowledged by the U.S. Environmental Protection Agency, in its court-ordered rewrite of its Yucca Mountain regulations, published in 2008), containers and facilities will degrade and fail, unless regularly replaced. The U.S. Nuclear Regulatory Commission assumed, in its 2014 Generic Environmental Impact Statement on Continued Storage of Spent Nuclear Fuel (previously called the Nuclear Waste Confidence Rule), that CISFs, once constructed and operating, would be replaced in their entirety, once every hundred years. So communities targeted by DOE for federal CISFs must be fully informed that the high risks of highly radioactive wastes will persist for at least a million years, and that unless the CISFs are replaced once per century in their entirety, those radioactive hazards would be unleashed into the local environment, to blow with the wind, flow with the water, and cause harm, downwind, downstream, up the food chain, and down countless generations into the future.

In a previous DOE RFI regarding CISFs, none other than Holtec International itself advised DOE that “interim” has to be assumed to last at least 300 years. Per the NRC immediately above, that would mean at least three complete replacements of the entire CISF, to stave off age-related degradation container failure. Where would the funding come from to do so? Neither NRC nor DOE have answered that question. What would the consequences be if such replacements did not take place, such as due to lack of funding, or loss of institutional control? NRC Chairman Macfarlane penned a warning, when NRC approved its Continued Storage of Spent Nuclear Fuel GEIS (formerly called Nuclear Waste Confidence Rule, but more truthfully dubbed a Nuke Waste Con Game), that institutional control will, by definition, someday be lost. Once that happens, what will be the consequences at CISFs?

These questions and concerns, and many others regarding the high risks of CISFs, must be communicated clearly to potential “host” communities, so they know what they are getting into. If this does not happen, fully-informed consent would be violated.

6. What organizations or communities should the Department consider partnering with to develop a consent-based approach to siting?

As provided for in the Nuclear Waste Policy Act of 1982, as Amended, regarding permanent repositories, the DOE should also provide funding to states, Native American tribal governments, and Affected Units of Local Government, being targeted for federal CISFs. Such

funding is essential for attaining fully-informed consent, including for the hiring of independent experts, and the performance of independent technical, sociological, and other research.

In addition, such funding support from DOE should be extended to Non-Governmental Organizations (NGOs), which are almost always expected to take part in U.S. federal licensing and/or public comment proceedings, such as this one, with no federal funding support whatsoever. This practice is itself a violation of environmental justice and social equity, as environmental and environmental justice organizations, which often operate on very low budgets, or with no funding at all, have been expected to self-fund, or else simply volunteer with no funding support, throughout highly complex and very lengthy federal proceedings. Such past abuse cannot be repeated in the present or future, not without violating fully-informed and free consent-based siting principles.

7. What other issues, including those raised in the *Draft Consent-Based Siting Process* ([www.energy.gov/sites/prod/files/2017/01/f34/Draft Consent-Based Siting Process and Siting Considerations.pdf](http://www.energy.gov/sites/prod/files/2017/01/f34/Draft%20Consent-Based%20Siting%20Process%20and%20Siting%20Considerations.pdf)) [sic, please note that this is a broken link, despite its inclusion in the Federal Register Notice] should the Department consider in implementing a consent-based siting process?

Opponents to federal and/or private CISFs have likely submitted more than 100,000 public comments opposed to CISFs over past years and decades. This has included public comments submitted to: NRC in the Private Fuel Storage, LLC ([targeted at the Skull Valley Goshutes Indian Reservation in Utah](#)) CISF environmental review public comment proceedings, in the late 1990s/early 2000s); the DOE Office of Nuclear Energy's own Blue Ribbon Commission on America's Nuclear Future (2010-2012); the U.S. Senate Energy and Natural Resources Committee chairman Ron Wyden (Democrat-Oregon) a decade ago, when the ENR Committee requested public comment during the development of legislation to implement the BRC's recommendations; DOE's own previous "Consent-Based Siting" public comment proceeding (2015-2017); and the current round of CISF targeting (Interim Storage Partners in Texas, Holtec in New Mexico) NRC environmental review public comment proceedings (2017-2021); and other related public comment proceedings. DOE should compile, publish, review, consider, and respond in writing, to all these previous 100,000+ public comments, opposed to CISFs, whether privately owned, or federally implemented.

*As those 100,000+ comments have made clear not for years, but for decades, large numbers of Americans rightfully regard CISFs as a non-sensical non-starter. Highly radioactive wastes and irradiated nuclear fuel should only be shipped once, from the nuclear power plant sites and DOE facilities where they are currently stored, to a technically suitable, socially acceptable permanent geologic repository. (See *Beyond Nuclear's "Stringent Criteria for a Highly Radioactive Waste Geologic Repository."*) CISFs, by definition, guarantee that serious transport risks will be multiplied, for no good reason whatsoever, as irradiated nuclear fuel and highly radioactive waste crosses the country from reactor sites and DOE facilities, to CISFs, only to have to be shipped again someday (or some decade, or century) to a permanent repository. The permanent repository could be located right back in the same direction from which the irradiated nuclear*

fuel came in the first place, further revealing the absolute folly of CISFs. If CISFs are merely intended to expedite the transfer of title and liability for commercial irradiated nuclear fuel, from industry onto DOE (that is, federal taxpayers), this is entirely unacceptable. As federal policy, law, and regulation have long established, and as courts have ruled, interim storage is the private owners' responsibility, while permanent disposal is the federal government's (that is, DOE's or its replacement entity, per the BRC recommendation — that is, federal taxpayers') responsibility. This latter policy already represents an unprecedented, unique in all of industry, very large-scale subsidy to a private industry. The nuclear power industry should not be allowed to foist interim storage costs, risks, and liability onto DOE (that is, taxpayers) as well. This would be a radical departure from past federal policy, law, regulation, and court ruling precedent.

Besides, DOE, as well as NRC, the nuclear power industry, and its proponents, stubbornly refuse to acknowledge much or any risk associated with on-site storage of irradiated nuclear fuel and highly radioactive waste, whether stored in wet indoor pools, or outdoor dry cask storage, whether at operating nuclear power plants, permanently closed atomic reactors, DOE complex sites, or elsewhere. If such on-site storage is so safe and secure, as DOE, NRC, and the nuclear power industry assert, then why ship the wastes to CISFs? Why take the unnecessary transport risks? Why expose virgin away-from-reactor sites to the very high risks of CISFs, if current on-site storage is so safe and secure? DOE, NRC, and the nuclear power industry are speaking out both sides of their mouth, in their advocacy for unneeded, unhelpful CISFs. CISFs actually multiply the risks, unnecessarily, unhelpfully, and should be rejected.

Area 2: Removing Barriers to Meaningful Participation

1. What barriers might prevent meaningful participation in a consent-based siting process and how could those barriers be mitigated or removed?

As mentioned above, BIPOC and/or low-income communities, as well as those already disproportionately polluted, should not even be targeted for CISFs in the first place. It would be an environmental justice violation, on its face. But DOE could and should support BIPOC and/or low-income communities, especially those already shouldering disproportionately high hazardous industry burdens, in consent-based siting of safe, clean, renewable energy and energy efficiency economic development. This would comport with the Biden administration's stated EJ principles.

Importantly, Latinx communities often have a large percentage of residents for whom Spanish is their primary or only language. Such is the case in the region surrounding the privately owned CISFs targeting the Permian Basin in New Mexico and Texas currently. Along one stretch of railway (El Paso to Monahans in West Texas) that would carry high-level radioactive wastes to one or both of these CISFs if they are constructed and operated, the Latinx population represents 92% of the overall population, and 49% of the population does not speak English well. (For more detailed information, see: < <http://static1.1.sqspcdn.com/static/f/356082/28466350/1631389405890/CISF+Dangers+and+Holtec+and+ISP+sites-3.pdf?token=TdODAT3hqzGDDH887ttAaoVjjJQ%3D> >)

Thus, for DOE to meaningfully communicate with such populations, all written and verbal communications must not only appear in English, but also Spanish.

Similarly, numerous Indigenous Nations have been and still are targeted for CISFs, whether privately-owned or federal. Again, all communications must be translated into all local Indigenous languages. This is especially important given the leadership role of elders in traditional Indigenous Nations; many elders speak their Native language, with English (and/or Spanish) a distant second, if at all.

Along similar lines, DOE must always be conscious of digital divides. Given the disproportionately high poverty rates, rural locales, and other socio-economic challenges faced by many BIPOC and low-income communities, including those already beset by disproportionate hazardous pollution burdens, many citizens and residents that would be most impacted by CISFs, do not have ready internet, nor cell phone, access. Despite this, especially in this era of pandemic, most to all federal government proceedings (including this one, DOE's RFI re: CIS "Consent-Based Siting," is mostly to entirely internet-based). New Mexico, currently targeted by a private CISF (Holtec), with very likely DOE involvement (albeit illegal), and previously targeted by DOE for a federal CISF (at the Mescalero Apache Reservation, which was then later targeted by a private CISF, Private Fuel Storage, LLC), is a case in point. The majority minority (Latinx, Indigenous) State of New Mexico faces many socio-economic challenges, in addition to its disproportionate nuclear, fossil fuel, and other hazardous industry pollution levels. Among these is the current lack of access, by many New Mexico citizens and residents, to the internet, and reliable telephonic connections. Thus, if DOE proposes to undertake consent-based siting interactions in such places, the agency must be prepared to rectify such digital divides. If not, any claim of "consent-based siting" rings hollow and empty, a merely meaningless check the box PR exercise.

Last but not least, the hearing and visually impaired, or person with other physical challenges, must have full access to all communications, just like everyone else in society. Not only does the Americans with Disabilities Act require this by law of federal agencies like DOE, but it is the right thing to do. Numerous persons with hearing impairments spoke out at an NRC DEIS public comment meeting re: CISF applications in the recent past, objecting to the illegal, high hurdles they faced in simply taking part.

2. What resources might be needed to ensure potentially interested communities have adequate opportunities for information sharing, expert assistance, and meaningful participation in the consent-based siting process?

In addition to our answer to the question immediately above, as we also mentioned further above, DOE must provide adequate funding for community involvement, especially in BIPOC and/or low-income communities, particularly those already heavily burdened by hazardous industry and pollution. Such funding is needed for these communities to educate themselves, as well as to hire experts, communicate with their neighbors, and otherwise meaningfully take part in a very high stakes (life and death stakes, forevermore) proceeding initiated by a federal executive agency with a budget in the tens of billions of dollars per year (provided by taxpaying Americans, by the way, including hardworking ones in these very same targeted communities),

initiated — truth be told — on behalf of the nuclear power industry, itself a trillion dollar, extraordinarily heavily publicly subsidized special interest in this country.

Such funding support should be extended by DOE to NGOs, including environmental and environmental justice and social equity NGOs, to enable them to also meaningfully participate in the proceedings. After all, DOE's counterpart agencies, as in Canada and Scandinavia, do this. But in the U.S., low income, to no budget, grassroots environmental, EJ, and social justice organizations are expected to pay all the freight for their own involvement in such proceedings, or to simply take part in an entirely unfunded, completely volunteer way. This is not right nor just, and certainly violates any fair concept of "consent-based siting," at least in regards to the "host" community's civic sector/civil society, a vital element of the American experience, from the very beginning of our great experiment with democracy.

3. How could the Department maximize opportunities for mutual learning and collaboration with potentially interested communities?

Renewable energy and energy efficiency are the future, if we are to have a future, in our climate-constrained world. Nuclear power is way too slow, and way too expensive, to help address the climate crisis in any meaningful way. In fact, money wasted on glacially slow and astronomically expensive nuclear power, is an opportunity cost, robbing resources from the real solutions, including renewables and energy efficiency.

So, to maximize opportunities for mutual learning, and to collaborate with communities interested in economic development, job creation, infrastructure improvement, and potential funding from DOE, renewables and efficiency should be the focus, not nuclear power, including its hideous "back end," radioactive waste storage and "disposal" (a misnomer on a small, living planet — how can we "dispose" of this forever hazard, that can all too easily escape into the biosphere over time, as its containment fails?).

*That said, even though nuclear power cannot help solve the climate crisis, it does have "insurmountable risks" all its own, as conveyed by the title and content of the groundbreaking 2006 book by Dr. Brice Smith of the Institute for Energy and Environmental Research, *Insurmountable Risks: The Dangers of Using Nuclear Power to Combat Global Climate Change* (see: <https://ieer.org/resource/books/insurmountable-risks-dangers-nuclear/>). One of these is the dilemma of highly radioactive waste management. Of course we should stop making it. But for what already exists, environmental justice principles preclude the targeting of BIPOC and/or low-income communities for CISFs, especially those already disproportionately burdened by hazardous pollution. Yet this is precisely what DOE is attempting to do, while calling it "consent-based siting" as well as an "environmental justice" initiative. Orwell is rolling so fast in his grave, he could be connected to a turbo-generator and connected to the electric grid!*

4. How might the Department more effectively engage with local, State, and Tribal governments on consent-based siting of federal interim storage facilities?

As with the Nevada congressional delegation's Nuclear Waste Informed Consent Act bill, introduced into both houses at the beginning of each new session of congress, any state targeted

for a permanent repository should of course have absolute and final veto rights against the scheme — that is, the power of binding non-consent.

No state should have highly radioactive waste shoved down its throat, against its will. As the DOE's own BRC itself pointed out, such attempts to "Screw Nevada" at Yucca Mountain, or to screw any other states in a similar way, will almost certainly end in failure, with no repository whatsoever at the end of bitter fight.

But of course, state veto rights should also extend to CISFs. Such rights should also be extended to Native American Tribal, and Local, governments, targeted with highly hazardous facilities such as permanent repositories and/or CISFs.

So, to engage with State, Local, and/or Tribal governments, DOE should guarantee such governments the absolute and final right to veto, or to express their non-consent, against such facilities, from the start.

But as mentioned above, DOE should not be initiating such site searches, even if "consent-based." After all, the DOE Office of Nuclear Energy's very own Blue Ribbon Commission on America's Nuclear Future recommended, in its Final Report in Jan. 2012, that DOE be replaced in the realm of highly radioactive waste management. Reasons included a complete and irreparable breach of trust by DOE, in terms of its incompetence and worse, vis-a-vis highly radioactive waste management, storage, and "disposal."

5. What information do communities, governments, or other stakeholders need to engage with the Department on consent-based siting of federal interim storage facilities?

DOE should disclose to communities, governments, and/or other stakeholders the truth about the potentially catastrophic consequences of "hosting" forever hazardous high-level radioactive wastes and irradiated nuclear fuel, even for so-called "interim storage." DOE should make clear that "interim" storage would very likely become de facto permanent surface disposal, if a CISF is opened in the absence of a licensed, constructed, and operating permanent geologic repository, which is the exact situation in which we find ourselves.

DOE should disclose the truth about the hazards to human health of exposure to even short-term low doses of ionizing radioactivity, let alone long-term low doses of ionizing radioactivity, even under "routine" or "incident-free" operations of a CISF.

But of course, large-scale exposure to high doses of ionizing radioactivity — as due to accidents, attacks, natural or climate chaos caused, extreme weather disasters, and/or simply age-related degradation and failure of containment at CISFs over long enough periods of time — would be even more catastrophic.

DOE should disclose the high risks of reprocessing, since CISFs and reprocessing facilities are often joined at the hip, revolving door style. The private CISF targeted at southeastern New Mexico by Holtec actually grew out of a DOE scheme, the Global Nuclear Energy Partnership (GNEP), which spawned the Eddy-Lea [Counties] Energy Alliance, a pro-nuclear booster group, itself closely affiliated with the Waste Isolation Pilot Plant (which itself experienced an

“impossible” leak of plutonium and other transuranic radioactive isotopes into the environment on Valentine’s Day 2014, exposing nearly two-dozen workers to ultra-hazardous alpha inhalation doses), itself also a DOE project.

Reprocessing’s many risks include nuclear weapons proliferation, large-scale releases of hazardous ionizing radioactivity to air, soil, and surface water (and thus harm downwind, downstream, up the food chain, and down the generations), as well as astronomical expense, which the public will be forced to pay.

DOE should disclose the radioactive stigma impact on all other economic sectors, in communities and even states and even regions that become radioactive waste dumps.

DOE should disclose that most higher paying jobs associated with CISFs will go to specially trained individuals coming from afar, not locally, while most of the very small number of jobs that are created, and accessible by most local residents, will not be very high paying at all.

Such negative impacts, and many others, associated with CISFs should be fully disclosed by DOE to potential “host” communities and states or Native American Tribal Governments, or else any notion of “consent-based siting” will be undermined, as the “consent” will not be fully informed.

And again, low-income and/or BIPOC communities should not be targeted, lest “consent” not be freely given, but rather an expression of economic desperation, or other form of exploitation by a powerful federal agency, namely DOE, and the nuclear power industry it serves.

Area 3: Interim Storage as Part of a Waste Management System

1. How can the Department ensure considerations of social equity and environmental justice are addressed in developing the nation's waste management system?

BIPOC and/or low-income communities should never again be targeted for CISFs. DOE’s own environmental injustice in this regard in the past — targeting Native American reservations for CISFs, as well as targeting Western Shoshone land in Nevada for a permanent repository — is infamous and shameful. It should not be repeated in the present nor future (see: <http://archives.nirs.us/radwaste/scullvalley/historynativecommunitiesnuclearwaste06142005.pdf>; also see, regarding a DOE CISF scheme that turned into a private CISF scheme, targeting the Skull Valley Goshutes Indian Reservation in Utah: <http://archives.nirs.us/radwaste/scullvalley/skullvalley.htm>).

For Women's History Month in March, 2009, President Barack Obama honored Grace Thorpe (10 December 1921 – 1 April 2008), a Sauk and Fox and Pokagon Potawatomi Indian anti-nuclear activist, for her successful work to protect her own, and other, Native American reservations targeted for highly radioactive irradiated nuclear fuel de facto permanent surface storage parking lot dumps.

Obama's proclamation began:

“With passion and courage, women have taught us that when we band together to advocate for our highest ideals, we can advance our common well-being and strengthen the fabric of our Nation. Each year during Women's History Month, we remember and celebrate women from all walks of life who have shaped this great Nation. This year, in accordance with the theme "Women Taking the Lead to Save our Planet," we pay particular tribute to the efforts of women in preserving and protecting the environment for present and future generations...”

It continued:

“...Women have also taken the lead throughout our history in preserving our natural environment.”

Re: Grace Thorpe, President Obama proclaimed:

“Grace Thorpe, another leading environmental advocate, also connected environmental protection with human well-being by emphasizing the vulnerability of certain populations to environmental hazards. In 1992, she launched a successful campaign to organize Native Americans to oppose the storage of nuclear waste on their reservations, which she said contradicted Native American principles of stewardship of the earth. She also proposed that America invest in alternative energy sources, such as hydroelectricity, solar power, and wind power.”

Thorpe served as a board of directors members of NIRS (Nuclear Information and Resource Service). Her primary organizational affiliation was NECONA (National Environmental Coalition of Native Americans).

She once told Beyond Nuclear's Kevin Kamps, in summer 2002, that her motivation to fight nuclear power and radioactive waste came from her experiences in Nagasaki, Japan in the immediate aftermath of the atomic bombing there. Thorpe won a Bronze Star for her service in the Women's Army Auxiliary Corps (WAACs, pronounced "wax") in World War II.

After President Obama's remarkable proclamation honoring Grace Thorpe's successful life's work fending off CISFs targeted at Native American reservations, how can the Biden administration DOE now be targeting Native American reservations, and other BIPOC, and/or low-income communities, especially those already suffering a disproportionate burden of pollution and hazard, with yet another round of proposed CISF schemes, albeit now under the ruse of “consent-based siting”? It is an EJ violation in and of itself.

Such repeated targeting of BIPOC and/or low-income communities, for ever more pollution and hazard, over and over again over decades, is terrorizing and wearying to the communities which must repeatedly muster the wherewithal to fend off such threats, while facing many other challenges, and while living their lives, caring for their families and communities, and striving to preserve their cultural life-ways. In this very real sense, DOE's current “consent-based siting” RFI promoting CISFs is a significant EJ violation, in and of itself.

2. What are possible benefits or drawbacks to co-locating multiple facilities within the waste management system or co-locating waste management facilities with manufacturing facilities, research and development infrastructure, or clean energy technologies?

As mentioned above, the private CISF scheme proposed by Holtec in southeastern New Mexico grew out of DOE's very own GNEP scheme, a pro-reprocessing and pro-“advanced” reactor RD&D (Research, Development, and Deployment) scheme, that thankfully died a sudden death with the end of the Bush/Cheney administration. But truth be told, Holtec would like to undertake reprocessing at its CISF someday, if it could get away with it — as leaders of ELEA have revealed, as in media interviews, over the years. Holtec might even float the trial balloon of deploying Small Modular Nuclear Reactors at the CISF site. After all, it has a SMNR design/fabrication/sales division. Holtec pulled the bait and switch of acquiring the permanently shutdown Oyster Creek nuclear power plant, supposedly for decommissioning and irradiated nuclear fuel management purposes. But after a short time, Holtec then proposed to build a SMNR at Oyster Creek. Holtec cannot be trusted not to do so at other supposed decommissioning sites (Indian Point, NY; Palisades/Big Rock Point, MI; Pilgrim, MA), as well as at its CISF in NM.

But truth be told, Interim Storage Partners in Andrews County, TX, 0.37 miles upstream from the NM border, would also like to reprocess irradiated nuclear fuel at its CISF, someday, if it can get away with it. After all, Orano (formerly Areva, formerly Cogema), the French government owned nuclear giant, is a major “partner” in Interim Storage Partners. Orano/Areva/Cogema is also the lead reprocessing entity in the Western world, having contaminated the Atlantic Ocean all the way to the Canadian Arctic with radioactive wastewater pollution, as well as releasing large-scale hazardous radioactive gaseous pollution onto the winds blowing across Europe.

Although DOE is proposing a federal CISF in this RFP, the same dynamic still applies. DOE tends to try to congregate multiple nuclear facilities on the same “nuclear oasis” site, given the popular resistance to all things nuclear in most places nationwide. Wherever DOE can get an inch, it attempts to take a mile. WIPP in NM is another such example. WIPP was sold to the people of NM, against the will of many, with the false promise that if WIPP opened as a so-called “low” level radioactive waste dump (for ultra-hazardous transuranic military wastes), then NM would never be asked to become the “host” for highly radioactive wastes.

In fact, WIPP's existence is what has led its own proponents and boosters to strive to add more and more nuclear industry in the immediate area, what rabidly pro-nuclear U.S. Senator Pete Domenici (Republican-NM) called his “nuclear corridor,” even extending into west TX.

After WIPP, URENCO set up shop in Eunice, NM, with NRC's blessing, even though URENCO was blocked in Louisiana over EJ violations, and was run out of other states, like TN, where it attempted to set up shop. URENCO set up shop in southeastern NM despite widespread resistance in NM, and nationally.

Then Waste Control Specialists, LLC opened a national “low” level radioactive waste dump, just several miles east of Eunice, NM, just across the NM/TX state line in Andrews County.

International Isotopes, a depleted uranium hexafluoride deconversion facility, has been proposed near Hobbs, NM.

All of this is in addition to past nuclear abuses in southeastern NM, such as the Gnome-Coach Experimental (Nuclear Explosive Device) Test Site. Not to mention the nuclear abuses across NM before (and after) WIPP came in, including at Los Alamos National Lab, the Trinity atomic bomb test site, Sandia National Lab and Kirtland Air Force Base, the uranium mining region of northwestern NM and the adjacent Four Corners area, in Pueblo and Navajo/Diné country, abuses at the White Mesa Uranium Mill in Ute Mountain Ute country in Colorado/Four Corners, etc. The radioactive racism perpetrated by the nuclear industry and DOE against the people of NM is infamous and overwhelming, as well as still ongoing.

All this to say that adding environmental injustice upon environmental injustice does not make for environmental justice. That is why DOE's attempted assertion that the jobs, infrastructure development, and potential funding associated with "hosting" a CISF, would contribute to social equity and EJ, is Orwellian.

Proposed legislation on Capitol Hill, such as the Nuclear Waste Administration Act and other bills, purportedly intended to enact into law recommendations made by the DOE's own BRC, has suggested that preference should be given to sites that could "host" a so-called pilot CISF, that could then "host" a full-scale CISF, that could then "host" a permanent repository. Of course, this means that any community that makes the mistake of agreeing to "host" a pilot CISF, will then be put under extreme pressure to also agree to "host" a full-scale CISF, and then will be put under even more pressure to agree to "host" a permanent repository.

In a very real sense, this is an echo of NM's prior experience with Los Alamos, Trinity, WIPP, etc. over the course of eight decades, and counting.

And, as mentioned above, such pressure could extend beyond "hosting" radioactive waste dumps, to such other high hazard nuclear facilities as reprocessing centers, SMNRs, etc.

This amounts to Faustian fission. Once the nuclear beast (a phrase coined by the NM-based Nuclear Issues Study Group in 2017 for its conference at UNM, "Dismantling the Nuclear Beast") gets its claws into a "nuclear oasis," it will never let go. It will continue to press to add more and more hazardous nuclear industry facilities, into often times BIPOC and/or low-income "host" communities, which never consented to the initial nuclear "pilot" facilities in the first place.

3. To what extent should development of an interim storage facility relate to progress on establishing a permanent repository?

As mentioned immediately above, the nuclear beast, once its claws are in, will press for more and more. A federal CISF could well become a permanent geologic repository, whether or not the site is suitable, or socially acceptable, for either a CISF or a repository.

Alternatively, a federal CISF, just as with a private CISF, would likely become a de facto permanent surface storage site, or more accurately, a de facto permanent surface disposal site, a parking lot dump.

Another version of this involves the company Deep Isolation, Inc., pushing untested deep borehole disposal for irradiated nuclear fuel and highly radioactive wastes. Deep Isolation, Inc. is staffed by many a former DOE official, yet another example of the revolving door between federal and private, between DOE and industry. Truth be told, like a radioactive snake oil salesman, Deep Isolation, Inc. would like to sell deep borehole disposal anywhere it can get away with it, be that at CISFs, at reactor sites, or elsewhere. So yet again, once a nuclear beast is let inside the house, it won't leave, till it wrecks the place.

Another important point here is the spirit, and in fact the letter, of the law embodied in the Nuclear Waste Policy Act of 1982, as Amended. States with relatively small populations, and thus relatively less political and economic power, made sure to include in the law a wise precaution, prohibiting DOE from taking title to commercial irradiated nuclear fuel, unless and until a permanent geologic repository was licensed, constructed, and operating.

Otherwise, the political will to ever go forward with a repository would be lost, and the CISF would become de facto permanent surface disposal, a parking lot dump.

Despite this clear prohibition in federal law, NRC has proceeded to process the Holtec and ISP private CISF license applications, which clearly indicate a major or even overriding role for DOE involvement, including paying most to all costs, including a hefty profit margin to the private company CISF owners — that is, effectively a title transfer for commercial irradiated nuclear fuel from private industry owners, to DOE (that is, taxpayers). These supposedly “private” CISF schemes, with their overriding dependence on DOE (taxpayers) to pay all the freight, significantly blurs the lines of distinction between “private” and “federal” CISFs, in violation of the Nuclear Waste Policy Act of 1982, as Amended. (See Beyond Nuclear's series of fact sheets for more information on this: <http://archive.beyondnuclear.org/centralized-storage/2021/9/11/new-beyond-nuclear-fact-sheets-opposing-consolidated-interim.html>)

A broad coalition of environmental groups, oil/natural gas/ranching/agricultural interests, and even the States of NM and TX themselves, have filed federal appeals against both CISFs, ISP (which NRC licensed in Sept. 2021), and Holtec (which NRC will likely license later this year). Bipartisan U.S. congressional delegations in the Permian Basin have also spoken out strongly against the CISF schemes.

In addition, DOE's (using federal taxpayer money) paying most to all the freight for these supposedly “private” CISFs amounts to a radical departure from many decades of established U.S. law, regulation, and policy, as affirmed by federal court precedent — that storage of commercial irradiated nuclear fuel is the private industry's responsibility (and liability), while permanent disposal is the federal government's responsibility (and liability). In other words, title/ownership and liability cannot transfer, from private industry to DOE (American taxpayers) unless and until a permanent geologic repository has opened. CISFs, whether private or federal, or some combination of the two, proceeding in the absence of an operating repository, thus

violates the spirit and letter of the Nuclear Waste Policy Act of 1982, as Amended, to the peril of CISF “host” communities, states, Native American reservations, etc.

4. What other issues should the Department consider in developing a waste management system?

As per above, didn't the BRC in Jan. 2012 recommend DOE be replaced as the agency in charge of irradiated nuclear fuel and highly radioactive waste management?! Therefore this entire proceeding is bogus and should be terminated! The Dec. 2015-Jan. 2017 DOE “consent-based siting” public comment proceeding further breached the public's trust. Large numbers of public comments, opposed to CISFs, were largely to entirely ignored by DOE in that proceeding. DOE even scrupulously avoided the very places in the U.S. targeted for “private” CISFs, albeit with deep DOE involvement, in TX and NM. Texans and New Mexicans opposed to the CISFs had to travel to AZ to take part in DOE's closest “consent-based siting” public comment meeting! DOE remaining the agency in charge is a blatant contradiction of its own BRC's recommendations!

[Comments prepared by Kevin Kamps, Beyond Nuclear's radioactive waste specialist, on 1/27/22. For more information, contact: kevin@beyondnuclear.org; (240) 462-3216.]