



## RESOLUTION

### ALL PUEBLO COUNCIL OF GOVERNORS

#### RESOLUTION NO. APCG 2019-14

#### SUPPORTING PROTECTION OF NATURAL AND CULTURAL RESOURCES ALONG THE PROPOSED TRANSPORT ROUTE OF HIGH-LEVEL RADIOACTIVE NUCLEAR WASTE FROM STORAGE SITES OUTSIDE OF NEW MEXICO BY HOLTEC INTERNATIONAL AND INTERIM STORAGE PARTNERS TO THE CONSOLIDATED INTERIM STORAGE FACILITIES IN SOUTHEASTERN NEW MEXICO AND TEXAS

Acoma

Cochiti

Isleta

Jemez

Laguna

Nambe

Ohkay Owingeh

Picuris

Pojoaque

Sandia

San Felipe

San Ildefonso

Santa Ana

Santa Clara

Santo Domingo

Taos

Tesuque

Ysleta Del Sur

Zia

Zuni

**WHEREAS**, the All Pueblo Council of Governors is comprised of the Pueblos of Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh, Picuris, Pojoaque, San Felipe, San Ildefonso, Sandia, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia and Zuni, and one pueblo in Texas, Ysleta Del Sur, each having the sovereign authority to govern their own affairs;

**WHEREAS**, the purpose of the All Pueblo Council of Governors is to advocate, foster, protect, and encourage the social, cultural and traditional well-being of the Pueblo Nations; and,

**WHEREAS**, through their inherent and sovereign rights, the All Pueblo Council of Governors will promote the language, health, economic and natural resources, and educational advancement of all Pueblo people; and

**WHEREAS**, the 20 Pueblos possess inherent government authority and sovereignty over their lands; and

**WHEREAS**, the protection of each Pueblos' natural resources, traditional cultural properties and sacred sites is necessary to each Pueblos' cultural preservation now and into the future, and each All Pueblo Council of Governors Member possesses its own cultural territory and sovereign right to protect its traditional cultural properties and sacred sites, whether or not they are located within each Pueblo's current exterior boundaries; and

**WHEREAS**, current Pueblo youth and generations forthcoming have a special interest in the protection of natural and cultural resources whether or not they are located within each Pueblo's current exterior boundaries to ensure the sustainability of the social, cultural, and traditional well-being of Pueblo communities; and

**WHEREAS**, according to the United States Government Accountability Office, the United States has not identified a permanent repository for over 80,000 metric tons of spent nuclear fuel currently stored at 73 sites in 35 states requiring disposal, with the national



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Officers:  
E. Paul Torres, Chairman  
Governor J. Michael Chavarria, Vice Chair  
Governor Val Panteah, Sr., Secretary

amount of waste expected to increase to at least 140,000 metric tons over the next several decades; and

Acoma

Cochiti

**WHEREAS**, in 2008, the Department of Energy (“DOE”) submitted a license application to the U.S Nuclear Regulatory Commission for authorization to construct a permanent geological repository at Yucca Mountain. However shortly after DOE’s application was submitted, Congress stopped funding the project and determined that a permanent geologic repository at Yucca Mountain is not a workable option; and

Isleta

Jemez

Laguna

**WHEREAS**, private companies Holtec International and Interim Storage Partners (“Holtec/ISP”) have each since submitted a license application to the NRC Atomic Licensing Review Board for a temporary Consolidated Interim Storage Facilities (“CISF”) located in New Mexico and the other in Texas, to collectively transport, receive, and store up to 140,000 metric tons of the nation’s high level radioactive nuclear waste; and

Nambe

Ohkay Owingeh

Picuris

**WHEREAS**, in March 2017 Holtec International submitted a license application for a CISF located in Lea County, New Mexico to receive and store up to 100,000 metric tons of high level radioactive nuclear waste to the NRC under the requirements specified in the Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High- Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste (10 CFR Part 72). In February 2018, the NRC issued notice of its affirmative acceptance review of the license application for the CISF with a preliminary schedule of the license to be issued by July 2020; and

Pojoaque

Sandia

San Felipe

San Ildefonso

Santa Ana

**WHEREAS**, in April 2016, ISP submitted a revised license application for a CISF located in Andrews County, Texas to receive and store up to 40,000 metric tons of high level radioactive nuclear waste to the NRC under the same 10 CFR Part 72 requirements. In August 2018, the NRC issued notice of its affirmative acceptance review of the license application for the CISF with a preliminary schedule of the license to be issued by August 2020; and

Santa Clara

Santo Domingo

Taos

Tesuque

**WHEREAS**, the U.S. Nuclear Regulatory Commission (the “NRC”) and the U.S Department of Transportation (US DOT) are the two designated lead federal agencies responsible for the regulation of packaging, transport, storage, and disposal of spent nuclear fuel for these particular federal undertakings; and

Ysleta Del Sur

Zia

**WHEREAS**, according to a NRC letter to tribes regarding notification of and invitation for formal Section 106 Consultation dated April 2<sup>nd</sup>, 2018, an Environmental Impact Statement (EIS) for each of these projects will be prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA); and

Zuni



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Acoma

**WHEREAS**, according to the US Federal Register notice dated March 30, 2018 (83 FR 13802), the anticipated scope of the EIS will consider both radiological and non-radiological impacts associated with the proposed project(s) and its alternatives. The following resource areas have been tentatively identified for analysis in the EIS: Land use, transportation, geology and soils, water resources, ecological resources, air quality and climate change, noise, historical and cultural resources, visual and scenic resources, socioeconomics, public and occupational health, waste management, environmental justice, and cumulative impacts; and

Cochiti

Isleta

Jemez

Laguna

Nambe

Ohkay Owingeh

**WHEREAS**, the EIS for each of these projects prepared in accordance with requirements of NEPA and NHPA Section 106 must include notification by the NRC to provide an opportunity for tribal consultation with potentially affected tribes with cultural affiliation to the proposed CISF project area to identify cultural resources within the defined Area of Potential Effect (APE), confined to approximately 1,000 acres in Lea County, NM; and

Picuris

Pojoaque

Sandia

**WHEREAS**, according to the EIS Scoping Report dated January 2019, evaluation of the transportation of spent nuclear fuel is outside the scope of the EIS, and “specific modes of transportation and routes for proposed spent nuclear fuel shipments will likely not be determined until well after a licensing decision has been made” (NRC, 2019); and

San Felipe

San Ildefonso

**WHEREAS**, According to US DOT, NRC licensees are required to comply with 10 CFR 71.5 Transportation of Licensed Material applicable US DOT regulations in 49 CFR parts 107, 171 through 180, and 390 through 297; and

Santa Ana

**WHEREAS**, US DOT must provide meaningful tribal consultation with Pueblos when approving a transportation route through Pueblo land; and

Santa Clara

Santo Domingo

Taos

Tesuque

**WHEREAS**, the NRC Tribal Advance Notification Rule (77 FR 34194), pursuant to regulations governing packaging and transportation of radioactive material and physical protection of plants and materials, the NRC requires licensees to provide advance notification to self-selecting, participating federally-recognized tribal governments regarding shipments of irradiated reactor fuel and certain nuclear wastes for any shipment that passes within or across reservations only after a project license has been issued; and

Ysleta Del Sur

**WHEREAS**, the NRC must consult with Pueblos if it plans to issue a license to Holtec/ISP that involves transport of spent nuclear fuel through Pueblo lands; and

Zia

Zuni

**WHEREAS**, according to the United State Government Accountability Office, the proposals for both facilities include transport of spent nuclear fuel via railway and truck from reactor sites in the western United States to the CIS facilities, beginning the largest nuclear waste transportation campaign in the nation’s history; and



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Acoma

**WHEREAS**, this transportation campaign imposes potential risks to the health of the environment, communities, and irreparable harm to Pueblo cultural resources located near or on transportation routes; and

Cochiti

**WHEREAS**, two of New Mexico's major railroad systems; the Burlington Northern Santa Fe railway and the Union Pacific Railway that may be used to transport spent nuclear fuel traverses through portions of Pueblo lands, within communities, near residences, and schools; and

Isleta

Jemez

**WHEREAS**, many Pueblos, including those with lands traversed by the railroads mentioned above, lack adequate resources, training, and infrastructure for emergency preparedness, response, and remediation in the case of incidents involving accidental radiological release and contamination; and

Laguna

Nambe

Ohkay Owingeh

**WHEREAS**, New Mexico Governor Michelle Lujan Grisham and New Mexico State Land Office Commissioner Stephanie Garcia Richard have each issued letters opposing the license application citing transportation concerns; and

Picuris

Pojoaque

**WHEREAS**, New Mexico Congressional Members including Senator Udall and Senator Heinrich have cited transportation and permanent disposal concerns regarding these license applications; and

Sandia

San Felipe

**WHEREAS**, New Mexico Congressional member Representative Deb Haaland has issued a letter to the NRC opposing these license applications citing transportation and permanent disposal concerns; and

San Ildefonso

Santa Ana

**WHEREAS**, the City of Albuquerque, the City of Bernalillo, the City of Las Cruces have each adopted resolution to oppose the transport of spent nuclear fuel via railway for the purpose of temporary consolidated storage of radioactive waste in New Mexico; and

Santa Clara

Santo Domingo

**WHEREAS**, according to a 1985 federal government report, "Exposures and Health Effects from Spent Fuel Transportation" a severe accident involving one spent nuclear fuel cask could contaminate an area of 110 square kilometers, equivalent to 42.5 square miles with costs estimated \$620M in a rural area and up to \$2B in a highly developed urban area. Cleanup and recovery time were estimated to be 460 days in a rural area and much longer in an urban area; and

Taos

Tesuque

Ysleta Del Sur

Zia

**WHEREAS**, the ancestral homelands, current reservations, and communities of Pueblos throughout New Mexico's legacy of exposure to the nuclear fuel cycle— including weapons development, transportation, and storage of nuclear material—continues to detrimentally impact the health and well-being of our people, communities, and natural and cultural resources, the cultural losses and health effects of which will never fully be compensated or recovered; and

Zuni



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Acoma

**WHEREAS**, Pueblos have not been afforded the opportunity to engage in meaningful tribal consultation with the US DOT and NRC as lead agencies regarding transportation routes of high level radioactive spent nuclear fuel by private companies Holtec/ISP prior to a licensing decision; and

Cochiti

**WHEREAS**, APCG finds it is in the best interest of APCG to enact this resolution.

Isleta

**NOW THEREFORE BE IT RESOLVED**, the APCG hereby opposes the

Jemez

transportation of spent nuclear fuel across Pueblo lands and supports the protection of Pueblo natural and cultural resources located on or near determined transportation routes from potential risks associated with transport of high level radioactive nuclear waste through Pueblo lands now and into the future; and

Laguna

Nambe

**BE IT FURTHER RESOLVED**, the APCG hereby opposes the license application

Ohkay Owingeh

by private companies Holtec/ISP for proposed transportation of spent nuclear fuel from reactor sites across the country through Pueblo lands for the purpose of temporary consolidated storage of spent fuel in New Mexico and Texas; and

Picuris

Pojoaque

**BE IT FURTHER RESOLVED**, the All Pueblo Council of Governors does hereby request the five members of New Mexico's Congressional delegation to take such actions to take proactive steps as to support and protect the Pueblos' natural and cultural resources from risks associated with transport of high level radioactive nuclear waste through Pueblo lands and throughout New Mexico including, but not limited to, providing information to Pueblos regarding proposed transport of spent nuclear fuel by Holtec/ISP; and

Sandia

San Felipe

San Ildefonso

**BE IT FURTHER RESOLVED**, the All Pueblo Council of Governors hereby requires meaningful government-to-government consultation with Pueblos and tribes by the US DOT and the NRC for this federal undertaking regarding transport of spent nuclear fuel potentially affecting each Pueblo's traditional cultural properties, sacred sites, and cultural resources as mandated by the NHPA, NEPA, and Executive Orders 12898 and 13007; and

Santa Ana

Santa Clara

Santo Domingo

Taos

**BE IT FINALLY RESOLVED**, the APCG Chairman and the office of the All Pueblo Council of Governors is authorized to do all that is necessary to carry out the intent of this Resolution.

Tesuque

Ysleta Del Sur

Zia

Zuni



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## CERTIFICATION

Acoma

Cochiti

Isleta

Jemez

Laguna

Nambe

Ohkay Owingeh

Picuris

Pojoaque

Sandia

San Felipe

San Ildefonso

Santa Ana

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Zia

Zuni

We, the undersigned officials of the All Pueblo Council of Governors hereby certify that the foregoing Resolution No. APCG 2019-14 was considered and adopted at a duly called council meeting held on the 17th of October 2019 and at which time a quorum was present and the same was approved by a vote of 14 in favor, 0 against, 0 abstain, and 6 absent.

## ALL PUEBLO COUNCIL OF GOVERNORS

By:

E. Paul Torres, APCG Chairman

ATTEST:

Governor Val Panteah, APCG Secretary