

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

|                               |   |                                |
|-------------------------------|---|--------------------------------|
| BEYOND NUCLEAR, INC.,         | ) |                                |
| Petitioner,                   | ) |                                |
|                               | ) |                                |
| v.                            | ) | No. 20-1187, consolidated with |
|                               | ) | Nos. 20-1225, 21-1104          |
|                               | ) |                                |
| UNITED STATES NUCLEAR         | ) |                                |
| REGULATORY COMMISSION and the | ) |                                |
| UNITED STATES OF AMERICA,     | ) |                                |
| Respondents.                  | ) |                                |

**RESPONDENTS' REPORT CONCERNING STATUS  
OF PROCEEDINGS BEFORE AGENCY**

This case concerns the application of Holtec International for a license to construct and operate a facility for the interim storage of high-level radioactive waste in accordance with 10 C.F.R. Part 72. By orders dated October 8, 2020, and April 21, 2021, the Court placed the Petitions for Review in Case Nos. 20-1187 and 20-1225 in abeyance, directed Respondents to provide status reports concerning the status of agency proceedings at 90-day intervals, and directed the parties to file motions to govern further proceedings “within 30 days of the completion of the agency proceedings.”

Since the case was placed in abeyance in October 2020, the Nuclear Regulatory Commission (NRC) has issued two additional adjudicatory orders

beyond those challenged in Case Nos. 20-1187 and 20-1225. First, on February 18, 2021, the NRC issued CLI-21-04, an order resolving contentions challenging the license raised by Sierra Club. Sierra Club filed a Petition for Review in Case No. 21-1104 challenging CLI-21-04 and a prior Commission order (CLI-20-04) on April 14, 2021. The Court consolidated Sierra Club's Petition for Review with the Petitions for Review challenging Case Nos. 20-1187 and 20-1225 in its order of April 21, 2021.

Second, on April 28, 2021, the NRC issued CLI-21-07, an order resolving contentions challenging the license raised by Fasken Land and Minerals, Ltd. and Permian Basis Land and Royalty Owners (collectively, "Fasken"). Under the Hobbs Act, 28 U.S.C. § 2344, Fasken has 60 days to file a Petition for Review concerning the NRC's resolution of its contentions.

These orders represent the completion of the adjudicatory proceedings before the NRC concerning the proposed facility. However, the agency is still considering the application for a license for the proposed facility, and issuance of the license is not imminent. As such, Respondents do not understand agency proceedings to have been "completed," and, thus, the abeyance to have expired. Accordingly, the NRC will provide another abeyance status report in 90 days.

Respectfully submitted,

/s/ Justin D. Heminger

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