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VIA EMAIL
Division of Rulemaking, Environmental, and Financial Support
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission (NRC)
Washington, DC 20555
Holtec-CISFEIS@nrc.gov

Re: Docket ID NRC-2018-0052
Comments on NRC Draft Environmental Impact Statement (DEIS) for Holtec International's (Holtec) License Application for a Consolidated Interim Storage Facility (CISF) for Spent Nuclear Fuel and High-Level Waste

Dear Sir or Madam:

XTO Energy, Inc. (XTO) a subsidiary of Exxon Mobil Corporation appreciates the opportunity to submit these comments in response to the above-referenced published DEIS under the National Environmental Policy Act (NEPA). 85 Fed. Reg. 16,150 (Mar. 20, 2020); 85 Fed. Reg. 37,964 (June 24, 2020). We are concerned about the proposed Holtec CISF project's potential interference with XTO's existing oil and gas lease rights and operations in New Mexico, now and in the future. Of particular concern to XTO are our oil and gas lease interests that directly underlie or are adjacent to the Holtec project area.

The DEIS contains critical legal and factual errors on this score. It fails to support its conclusion that "no impact" on oil and gas development could ever occur despite Holtec's proposed exclusive use of its project area. DEIS at xxiv. Likewise, it summarily avers that "oil and gas exploration could coexist with Holtec's proposed project." *Id.* at 9-2. The DEIS does not recognize the full import of the dominant subsurface mineral estate owned by the State of New Mexico and leased to XTO (and other companies) for oil and gas development, which legally cannot be encumbered by an after-the-fact approval of a surface use like Holtec seeks here. The DEIS does not even indicate that NRC's interagency engagement included the relevant agency for non-federal oil and gas development, the State of New Mexico Land Office ("SLO"). Preservation of existing oil and gas lease rights must be resolved prior to publication of any Final EIS and Record of Decision. At a minimum, any license granted to Holtec must contain an express condition of non-interference with existing oil and gas leases within or adjacent to the Holtec project area.