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General Comment

See attached file(s)

Attachments

Stephen Kent comment re Docket ID NRC-2021-0125

General Comment re: Indian Point PSDAR and NRC Oversight -- Docket ID NRC-2021-0125

I am a longtime resident of Garrison, New York, just a few miles from the Indian Point nuclear plant (IP). Having been active and informed on Indian Point operational issues for many years, including many radiological releases from the plant, I reluctantly moved with my young children about 50 miles north in the early 2000s, and rented out our home in Garrison. From further upstate I worked on watchdogging the plant until it shut down. Now it is finally closed and the operational dangers no longer exist, we would like to move back. But new threats posed by Holtec's decommissioning plans are preventing us. Our exile from our home in Garrison will continue until they are adequately addressed and resolved.

Holtec/HDI and its parent companies have a very concerning track record on decommissioning, spent nuclear fuel management, accidents and coverups, being convicted and sanctioned for bribery and fraud, lying to state officials, ignoring municipal laws and high-handedness and litigiousness dealing with municipal governments, and treating public concerns and public input with contempt. Its record was documented extensively in filings made with the NRC and should have disqualified it to be Indian Point's licensee. Yet the NRC ignored this, and summarily approved license transfer to Holtec without even holding hearings, over strong objections from members of Congress, New York State, and the public.

In the Post-Shutdown Decommissioning Activities Report (PSDAR) Holtec filed with the NRC (improperly, since it was not yet the licensee), and in subsequent statements, Holtec has indicated plans for decommissioning that will put the public at risk and should be disallowed by any competent regulator.

For example, Holtec envisions shipping the radioactive waste via barge, subject to a Waste Management Plan it hasn't written yet. The PSDAR says, "The waste transportation process will be fully defined in the WMP to include the number of shipments, the disposal facilities and applicable requirements. HDI may elect to ship large plant components by barge." Sending nuclear barges down the Hudson, past Manhattan, would pose unacceptable public health, terrorism and environmental risks. It's a very dangerous proposition with which Holtec cannot be trusted. It's unclear whether these "components" would include highly radioactive spent nuclear fuel (SNF), but experts have said the PSDAR language does not rule it out, and in fact in 2002 DOE proposed transporting Indian Point's spent fuel by barge down the Hudson to Yucca Mountain. That's a strong indication that barge transportation of Indian Point's spent fuel may be in the works.

In general, transporting radioactive waste, whether by barge, truck or rail, is fraught with unsolved safety and practical problems, and entails risks of radiological release to the public. Holtec lacks the qualifications (e.g. expertise, demonstrated respect for laws and regulations, willingness to work with stakeholders, transparency and trustworthiness) to make and execute responsible decisions about transportation vs. onsite storage of radioactive waste.

In particular, transportin SNF to CISFs, whether by land or by water, poses a host of risks and threats -- from road and rail infrastructure that can't handle the weight, to unsafe transport casks, to canisters that are more likely to fail when laid on their side for transport.

Canisters used in the U.S. rely on convection (passive) cooling. For convection cooling to work, canisters must be upright. But in transport, canisters are laid down horizontally, which stops convection, causing the canister to overheat. Higher heat loads exacerbate canister failure risks, including higher pressurization and radiation leaks. A 2019 DOE gap analysis admitted we need to learn more about the horizontal orientation on temperature profiles inside dry casks, and proposed using a dry cask simulator

for more study, as well as more modeling and new methodologies to predict temperatures inside real casks "without excess conservatism." There is no technology in place to fully inspect canisters for damage, and the impacts of shaking and bumping of radioactive materials on railways are not known. In 2019 the Nuclear Waste Technical Review Board identified 30 unresolved technical issues in transporting SNF and other high-level radioactive waste that still need to be addressed. No cask has been approved for transporting thin-walled spent fuel canisters – in fact no vendor has even requested such approval. The NWTRB recommended DOE allow for a minimum of a decade to develop new cask and canister designs for SNF and HLW storage and transportation. Yet Holtec and the NRC are pushing ahead with licensing its CISF in New Mexico, which would accept spent fuel shipped from around the country in the next few years, as soon as 2023. The vast majority of these shipments would be thin-walled canisters. No new technology for transporting thin-walled spent fuel canisters is on the horizon now. It's much more likely that when CISFs are ready to open, the NRC will adjust its methodologies to avoid what DOE's gap analysis calls "excess conservatism" and approve current cask technology for transport, despite the risks.

Today the NRC announced its final environmental impact statement (EIS) for a similar CISF in Texas, saying NRC staff saw no concerns and recommended approval of the facility. This is an abdication of the NRC's regulatory responsibility, because transportation of spent fuel to CISFs in Texas and New Mexico indeed poses grave environmental threats. It also violates environmental justice principles, consent-based siting criteria and the Nuclear Waste Policy Act, all of which the NRC is supposed to uphold. In proceeding rapidly toward licensing CISFs and approving Holtec as Indian Point's licensee, the NRC has involved our community in violations of these principles.

The NRC has also failed to collect key data, as required by executive order, to enable informed decisions on CISFs and SNF transport. To date, there has been no comprehensive study comparing the costs, benefits and risks of transporting SNF to CISFs to any alternative approach, such as safeguarding it at the reactor sites until one or more geologic repositories is/are ready to receive it. Indeed, onsite storage until a geological repository opens is what the Nuclear Waste Policy Act currently requires.

While the costs and risks of transporting SNF to CISFs vs. robust onsite storage have yet to be studied, it's clear that the national economic impacts of this choice will very likely exceed $100 million a year. That means the regulatory decision of whether or not to permit CISFs and shipment of SNF across the country meets the definition of a "significant" regulatory action under Section 6 of Executive Order 12866, and that therefore a cost benefit analysis is required.

Section 6(a)(3)(B) of Executive Order 12866 states that, for each "significant" regulatory action, covered agencies are to provide to the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) a general "assessment of the potential costs and benefits of the regulatory action." Section 6(a)(3)(C) of the executive order also states that, for each "economically significant" regulatory action, agencies are to also provide to OIRA (unless prohibited by law):

> (i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;

(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and

(iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

A "potentially effective and reasonably feasible alternative" to transporting SNF to CISFs must therefore be assessed with a cost-benefit analysis before the NRC decides to move ahead with CISFs. That alternative is robust onsite storage. The fact it has promoted CISFs without commissioning and submitting such analysis to OIRA means the NRC is out of compliance with Executive Order 12866.

Meanwhile, Holtec intends to proceed with expedited removal of SNF from the fuel pools to put into dry storage, much faster than is safe. Holtec's PSDAR indicated that Holtec plans to complete transfer of Indian Point's spent fuel from the fuel pools to dry storage by mid-2024. Depending on when it starts, that means Holtec intends to compress the process into three years or less -- a reckless timeline. Five years is the industry standard to allow ordinary, low-burnup spent fuel to cool (thermally and in terms of radiation) sufficiently to be moved. About 60% of Indian Point's spent fuel inventory is high-burnup fuel, which is much more radioactive than ordinary spent fuel, and requires at least seven years or more before moving (some experts say much longer). Compressing the process to three years or less may cut costs, but would also put workers and residents in jeopardy, as Holtec did at San Onofre, where it nearly dropped a spent fuel canister being moved from the pools, and at Oyster Creek, where because Holtec was going too fast, workers got doused with radioactive water.

The dry storage systems Holtec will use at Indian Point are not adequate to protect the public. Holtec uses its own flawed and gouged dry storage spent fuel canisters, whose design Holtec changed in safety-significant ways without even seeking NRC permission. The NRC fined Holtec for the unauthorized change, but let it stand. A design flaw in redesigned canisters surfaced at SONGS during loading, when loose bolts from the shim support that holds the waste were discovered inside. Due to poor engineering, the canisters are unavoidably damaged by protrusions as they are downloaded into carbon steel-lined concrete casks and storage holes, embedding carbon particles into the canisters, and creating scratches, scraped and gouges. This hastens corrosion and cracking which can cause early canister failure.

This is part of a pattern. Since 2001 Holtec committed multiple violations of NRC quality assurance procedures, which are meant to insure its canisters met safety standards. The violations included Holtec changing designs in ways that did not follow NRC procedures, revising quality assurance procedures on its own without NRC approval, and taking ineffective corrective actions. Dr. Ross Landsman, NRC dry cask inspector for the Midwest regional office, wrote a damning memo to his superiors expressing full support for a whistleblower's quality assurance allegations against Holtec's storage/transport casks.

The NRC approved thin-wall dry storage canisters of the type Holtec will use at Indian Point for short-term storage of spent fuel only. But they are being widely used in ISFSIs and proposed for CISFs, which will store spent fuel for decades or centuries. EPRI claims it would take at least 80 years for thin-walled canisters to develop through-cracks and leak radioactivity. Yet a comparable component, a refueling water storage tank (RWST) at the Koeberg nuclear plant in South Africa, failed after just 17 years from chloride induced stress corrosion cracking triggered by corrosive salt in the marine environment. The Koeberg tank had cracks as deep as 0.61."

The steel walls of thin-wall canisters are of comparable thickness. They could be subject to through-wall cracking failure in less than two decades. The NRC acknowledged in 2014 that that once cracks start they can grow through the thin wall and cause component failure in as little as 16 years. High heat loads can also accelerate component failure. The NRC now approves more than doubling previously permitted heat loads for each storage canister, in order to accommodate faster transfer from fuel pools in fast decommissioning. It also stopped requiring verification of heat loads. When it approved the Holtec UMAX system of thin-walled, convection-cooled canisters, it did away with the requirement that licensees verify that the cooling is working. Today, as long as the utilities assert that heat load in each canister is under 30 kW, the NRC doesn't require proof. Monitoring canisters is obviously necessary for safe extended storage or transportation of spent fuel. But given the intense heat and radiation of loaded canisters and the difficulty of transmitting sensor signals, monitoring isn't easy to do, and the NRC has refused to require it. There is therefore no reliable way to know when the canisters might become damaged and fail.

A 2019 DOE gap analysis acknowledged there is currently no way to find cracks in the canisters. Even if there were a way to identify cracks, DOE also admitted there is currently no way to stop them from progressing, or to repair them. It offered no real solutions, and the industry and the NRC has adopted the stance the reparability is irrelevant since the canisters can't fail. Speaking about Holtec's canisters at a 2014 SONGS Community Engagement Panel meeting, Holtec CEO Kris Singh said, "It is not practical to repair a canister if it were damaged…if that canister were to develop a leak, let's be realistic; you have to find it…and then find the means to repair it; we think it's not a path forward…In the face of millions of curies of radioactivity coming out of canister; we think it's not a path forward."

High burnup fuel (HBU) makes up most of IP's spent fuel inventory. The NRC approved HBU for use in civilian reactors to lengthen the time between reactor refueling and cut owner's operating costs. It generally contains a higher percentage of uranium-235, allowing reactor operators to effectively double the time between refueling. Since it stays inside reactors about twice as long as conventional fuel, when it comes out of the reactor as spent fuel, HBU is about twice as radioactive as conventional low-burnup spent fuel, has much higher decay heat, and is more unstable. According to the NRC "there is limited data to show that the cladding of spent fuel with burnups greater than 45,000 MWd/MTU [megawatt-days per metric ton of uranium] will remain undamaged during the licensing period." But there is a body of research showing HBU degrades the zirconium metal cladding around the fuel rods, causing it to thin, become embrittled and fail.

The same research shows that high burnup fuel temperatures make spent fuel more vulnerable to damage from handling and transport. Cladding can fail when HBU spent fuel assemblies are removed from cooling pools, vacuum dried, and placed in dry storage canisters. Failure limits for HBU in dry storage, or for newer zirconium cladding alloys (which degrade faster with HBU than older alloys) remain unknown, but the unknowns don't suggest HBU dry storage is safe – on the contrary. There is currently no way to monitor to HBU in dry storage canisters to ensure it has not become damaged, and

no way for damaged HBU in canisters to be repacked in damaged fuel cans. At a minimum, HBU loaded into canisters is supposed to be surrounded by conventional low-burnup spent fuel to serve as a buffer. But Holtec loads its canisters the opposite way: HBU surrounds the low-burnup fuel which enables packing more of it into the canister. The NRC has acknowledged that this is a mistake. Yet despite unknown failure limits and evidence it's unsafe, the NRC continues to allow HBU to be loaded into dry storage canisters in this way.

Since the NRC concedes that "data is not currently available" to support the claim transportation of spent HBU fuel is safe, DOE researchers suggest HBU could be "trapped" at reactor sites for long periods -- presumably overloaded into canisters which aren't safe to store it.

Spent fuel exposed to air in fuel pools or dry storage can result in hydrogen gas buildup and explosions. As spent fuel is removed from fuel pools, any remaining water is irradiated and converts to hydrogen. Uranium reacts with water to produce uranium dioxide and hydrogen, forming uranium hydride, which can further damage zirconium cladding. Hydride formation in both uranium fuel and zirconium cladding gets worse with moderate- and high-burnup fuel, which accounts for a substantial portion of U.S. spent fuel inventory. Zirconium hydride gas and zirconium powder (which is used in fireworks and old flash bulbs) ignites at 270 degrees Celsius. Oxidation of fuel cladding also compromises fuel rod integrity, which can lead to criticality risks and buildup of potentially explosive hydrogen. Spent fuel can also go critical when exposed to unborated water (i.e. water in the environment as opposed to boron-treated water in spent fuel pools). Many reactors located in coastal areas, on islands, in flood plains and adjacent to water bodies are at risk for flooding. Given the lack of monitoring inside the canisters in the U.S., there is no way to know how much water will infiltrate them. The thin-walled canisters in wide use in the U.S. today have no pressure monitors or pressure relief valves, but over time, buildup of gases can overpressurize the canister, embrittle the welds, and reach flammable concentrations. These risks have been documented by experts and researchers, but NRC has dismissed them. It ignores the problem of hydride formation, assumes through-cracking in canisters won't happen, and concludes criticality and explosion of stored spent fuel won't occur. But that doesn't mean these risks are dismissible. On the contrary, dismissing them and failing to mitigate them makes them more of a threat.

For both short-term and long-term storage of spent nuclear fuel, the Nuclear Waste Technical Review Board recommends that SNF and its containment must be maintained, monitored, and retrievable in a manner that prevents radioactive leaks and hydrogen gas explosion. It also recommends canisters have pressure monitoring and pressure relief valves, since canisters are pressure vessels subject to gas buildup. Those recommendations have been ignored. The American Society of Mechanical Engineers (ASME) N3 standards *require* pressure vessels to have pressure monitors or and pressure relief valves. ASME further requires them to be examined for surface defects and for defects to be eliminated. The thin-walled canisters Holtec uses don't and can't meet these basic standards, though canisters used in many other countries do (e.g. Switzerland, Germany, Belgium Czech Republic, France, Italy, and others). The NRC simply exempts the canisters from ASME standards, and ignores NWTRB expert recommendations, for example refusing to require remote sensor monitoring systems.

Under current NRC regulations and industry practices, if a canister does fail, there is virtually no way to repair or repackage it. The NRC permits destruction of fuel pools once the fuel is removed (which saves saves licensees about $25 million per pool per year in overhead costs). But even for sites with intact fuel pools, it's not proven whether putting damaged spent fuel canisters back into a pool would be safe. This has never been done with a welded canister, for example. Many experts argue the only way to

repackage damaged canisters safely is to use a dry handling facility, aka a "hot cell," where spent fuel can be repackaged while inside a radiation containment vessel. The NRC has admitted hot cells will eventually be needed at some point, though it doesn't say when. Since loaded canisters may fail in less than two decades, and surface damage and other problems that can accelerate failure are common, the timing question is urgent. But hot cells are expensive, so with one exception, U.S. nuclear reactors don't use them, and the NRC doesn't require them. The proposed alternative, to put breached canisters inside a sealed, thick metal overpack, is little more than a fig leaf, designed to save money and create the appearance of a solution while avoiding dealing seriously with canister failure risks. Overpacks can't work because sealing the canister inside will eliminate convection cooling, causing it to overheat. Rather than incur the expense of building hot cells, the industry and the NRC prefer to assume that canisters won't fail, though that's far from a safe assumption for reasons described above.

As mentioned above, in 2014 Holtec's CEO Kris Singh admitted that if Holtec canisters fail or leak due to stress corrosion cracking, it wouldn't be possible to repair them. But in 2020, as Holtec was acquiring IP and other shuttered nuclear plants, Singh backtracked, saying that his remarks were taken out of context and that he now believes failing or leaking Holtec canisters might be repairable using emerging robotic technology. But that's an argument in the alternative to Holtec's long-standing contention, which the NRC has accepted: regardless of whether or not leaking canisters could be repaired (they can't), Holtec simply asserts that its canisters in any case cannot and will not leak or fail, so back-up systems to repackage them in the event of failure, such as a hot cell, aren't needed. Yet Holtec's thin-walled steel canisters are subject to stress corrosion cracking, and the possibility of canister failure is far from remote. Similar steel components at nuclear plants failed in 11 to 33 years at ambient temperatures (68 degrees F), while the steel walls of canisters get much hotter (750 degrees F), meaning that cracks could develop much faster. Since there is no technology for inspecting the canisters internally for cracks, there is no way to know whether or when cracks will develop in spent fuel canisters at IP. But the inverse is also true: there is no way to know or assert that they won't, and there is ample reason to be concerned they will.

The PSDAR does not address the configuration of the Independent spent fuel storage installation (ISFSI) at Indian Point, e.g., whether it will stand on a concrete pad in a "bowling pin" configuration with clear sight lines which make it more vulnerable to attack, or whether it will be bermed or otherwise shielded. I assume Holtec plans the former because it's less expensive, but this falls well short of the best practice of hardened onsite storage (HOSS), and is far inferior to systems used in Germany, Switzerland, and other countries. Using HOSS and other best practices would prevent further site contamination and reduce danger to the surrounding communities.

In short, Holtec's dry storage system is fundamentally flawed and inadequate to keep Indian Point's spent fuel safe. At the same time, there are clearly much better dry storage systems available in the nuclear industry. Why wouldn't the NRC require using the best available technologies at a plant whose spent fuel inventory contains roughly triple the radioactivity of Fukushima, located 25 miles from New York City, with some 20 million people living within a 50-mile radius?

The IP PSDAR timeline indicates at least some spent fuel will be stored onsite until 2061. Site restoration is to continue through 2033, but scientists and experts familiar with decommissioning say these reactor sites will never be restored to greenfield, and that site redevelopment is a fantasy. There will be ongoing, unremediated radioactive contamination long after Holtec has taken the money from the decommissioning trust fund, and the money from the Department of Energy fund to reimburse licensees for spent fuel management, and left town.

Indian Point is one of the most contaminated reactor sites in the U.S. Holtec plans to conduct its own site assessment, yet lacks financial or other incentives or the regulatory requirement to conduct comprehensive, objective assessments of the extent of the contamination. Clearwater and national groups including the Natural Resources Defense Council (NRDC) have long argued for independent, third-party site characterization, without which we have no reliable assessment of the degree of contamination at the site, and therefore no reliable baseline for scoping site remediation work to meet State standards for release. NRDC staff scientist Bemnet Alemayehu made this case at a public forum on Indian Point decommissioning which Clearwater organized in 2019.

The PSDAR says "During demolition, above-ground structures will be removed to a nominal depth of three (3) feet below the surrounding grade level." But IP soil contamination and groundwater contamination goes much deeper than that. At Yankee Rowe, contamination of soil and groundwater went down 300 feet, yet there a "derubblization" approach was used that limited remediation to the top few of feet of topsoil. Radioactive and toxic contamination of the soil and water was left after decommissioning, and Rowe has the fourth highest cancer rates in Massachusetts.

Indian Point has proven contamination of groundwater, and not just with tritium, but with worse isotopes including strontium-90. The PSDAR indicates Holtec isn't going to do anything about the radioactivity leaking into the groundwater and the Hudson, other than just watch and wait: "A plume of radiologically-contaminated ground water associated with the IP1 and IP2 spent fuel pools was discovered in 2005, fully investigated and subject to an ongoing Long-Term Monitoring Program (LTMP). The primary contaminants in the plume are tritium and strontium-90. The selected remedy is Monitored Natural Attenuation (MNA) being addressed under the oversight of the NRC. "

Extensive asbestos contamination at Indian Point has also been documented. The PSDAR says Holtec plans to remediate it. But it's worth noting Holtec reneged on its promise to remediate asbestos at Oyster Creek.

Holtec's PSDAR states that "emergency plans and procedures will remain in place to protect the health and safety of the public while the possibility of significant radiological releases exists." Yet its recent agreement Holtec's agreement to give Westchester County $50,000 for FY2022 and $35,000 for FY2023 to help fund emergency preparedness functions is tokenism and inadequate. Although the risk of a meltdown ends when Indian Point's reactors shut down, decommissioning entails significant ongoing risks of radiological release from dismantling and moving radioactive components, excavating radiologically contaminated soil, handling and storing spent fuel, and shipping radioactive waste, including high-level waste, offsite.

Holtec also has no realistic or adequate provision to protect their decommissioning workers, or provide them with emergency services. According to a formal complaint recently filed with the NRC by Cape Downwinders, Holtec Decommissioning International (HDI) knowingly provided the NRC with false information to secure approval for reduction of emergency planning requirements at the Pilgrim nuclear plant, putting its employees at risk.

The gist of the complaint is that Holtec repeatedly asserted that in the event of radiological emergency at the plant, ambulance services for workers would be provided by contract with American Medical Response (AMR) Inc. When Cape Downwiders called to check, it came to light that not only did AMR have no contract with Holtec to serve Pilgrim decommissioning workers, it had in fact pulled out of the

area over four years ago. Yet Holtec listed the locally non-existent AMR as their ambulance service provider, and repeatedly asserted they would provide service to workers at Pilgrim. Cape Downwiders made follow-up calls to the Plymouth Fire Department, which pointed to Brewster Ambulance as the current provider, stipulating that injured persons exposed to radiation must be decontaminated first before being transported in the ambulance. Cape Downwiders then called Brewster Ambulance to check, and reached an emergency medical technician, who said, "No, we won't put anyone heavily contaminated in back of an ambulance during a nuclear emergency." According NRC staff Neil Sheehan, NRC requirements that "ambulance service must be able to transport an injured person who is contaminated with radioactive material. Typically, the extent of the injury takes precedence over decontamination of the person." There is no provision for meeting this requirement at Pilgrim, and the watchdog group that stumbled onto this fact was given a multi-phase runaround. Given that, what confidence can we have that Holtec and NRC are taking emergency planning and response seriously for decommissioning workers and the public in the case of Indian Point?

These are only a few of the red flags raised by Holtec's PSDAR for Indian Point. Thanks to concerted work by citizens' groups and New York State government, New York has empaneled a unique Decommissioning Oversight Board (DOB) of state officials and experts which will work to discover, articulate and to the extent possible remedy the many deficiencies in Holtec's plans and procedures. But federal preemption places severe limits on what the State can do to oversee Holtec's work at Indian Point. The NRC is the entity with jurisdiction over radiological issues and public health and safety. Neither the NYS DOB nor State petitions and lawsuits against the NRC to mitigate dangers and deficiencies of Indian Point decommissioning are any sort of viable substitute for the NRC doing its job, and taking its decommissioning oversight responsibilities seriously.

Unless and until it does, my family and I, who are more informed than most about the dangers of Holtec decommissioning Indian Point under very lax NRC oversight, must remain exiled from our home in Garrison. But I and other advocates for nuclear safety and competent regulatory oversight will continue to watchdog Indian Point decommissioning, Holtec, and the NRC as if the safety and viability of our region and our homes depend on it, because they do.

Respectfully submitted,

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