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Docket: NRC-2021-0125

Holtec Decommissioning International, LLC Indian Point Nuclear Generating, Unit Nos. 1, 2, and 3 Post-Shutdown Decommissioning Activities Report

Comment On: NRC-2021-0125-0002

Holtec Decommissioning International, LLC; Indian Point Nuclear Generating, Unit Nos. 1, 2, and 3; Post-Shutdown Decommissioning Activities Report

Document: NRC-2021-0125-DRAFT-0036

Comment on FR Doc # 2021-15068

Submitter Information

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General Comment

See attached file(s)

Attachments

2021.10.22 Riverkeeper PSDAR Comments (NRC-2021-0125)



October 22, 2021

Via electronic filing at www.regulations.gov

Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: Riverkeeper, Inc. comments regarding the Post-Shutdown Decommissioning Activities Report (“PSDAR”) for Indian Point Energy Center (Docket Nos. NRC-2021-0125)

Dear U.S. Nuclear Regulatory Commission:

Riverkeeper, Inc. (“Riverkeeper”) greatly appreciates this opportunity to submit comments to the Nuclear Regulatory Commission (“NRC”) regarding the post-shutdown decommissioning activities report (“PSDAR”) for the Indian Point Energy Center (“Indian Point” or “IPEC”). Riverkeeper urges the NRC and the licensee Holtec International (“Holtec”) to modify the PSDAR to reflect the Joint Proposal reached between the licensee and the State of New York, local municipalities, the Public Utility Law Project, and Riverkeeper. The provisions of this proposal address most of Riverkeeper’s prior concerns about the Holtec and its commitment to a safe, complete, and swift decommissioning and must be incorporated into the PSDAR. The PSDAR must also acknowledge the Algonquin Incremental Market (“AIM”) pipeline and continue the current radiological monitoring of site. In addition, Riverkeeper urges the NRC to fulfill its duty to closely monitor the decommissioning activities to ensure adherence to the PSDAR and all relevant laws and regulations.

Riverkeeper is a member supported 501(c)(3) non-profit organization whose mission is to protect and restore the Hudson River from source to sea and safeguard drinking water supplies, through advocacy rooted in community partnerships, science and law. Riverkeeper has been engaged in various forms of advocacy around Indian Point for decades, and is a party to the 2017 Indian Point Closure Agreement with Entergy and the State of New York.¹ Riverkeeper is also a signatory to the 2021 Joint Proposal reached between the licensee and the State of New York, local municipalities, the Public Utility Law Project regarding the decommissioning and clean-up of Indian Point.²

¹ See *Entergy Nuclear Operations, Inc.*, 85 N.R.C. 77.

² Joint Proposal, <https://ag.ny.gov/sites/default/files/cbfc0fd-facd-4637-8f3c-eafb26ccbedf.pdf> (approved by the Public Service Commission on May 19, 2021).

Background

In late 2019, Entergy applied to the NRC for a license amendment approving the transfer the licenses for Indian Point Units 1, 2, and 3 to Holtec.³ Entergy also sought to transfer the general license for the Independent Spent Fuel Storage Installation (“ISFSI”) located on the site to Holtec. Finally, Entergy seeks to transfer its authority to conduct licensed activities at Indian Point to HDI. The NRC approved the license transfer of Indian Point on November 23, 2020. Subsequently, a number of parties brought suits challenging the NRC’s approval, including Riverkeeper and New York State.

In parallel, an administrative proceeding regarding IPEC’s license transfer was proceeded before the New York State Public Service Commission (“PSC”). This proceeding resulted in the Joint Proposal between Holtec and Entergy, and the State of New York, local municipalities, the Public Utility Law Project, and Riverkeeper, which was approved by the PSC on May 19, 2021. The provisions of the Joint Proposal addressed the parties’ concerns about Holtec, which we believe to be is the most comprehensive agreement in the nation regarding decommissioning, providing strict State oversight of Holtec, a robust financial assurance package, and commitment to complete environmental remediation. As a result of that agreement, all parties also agreed to withdraw their pending challenges to the NRC approval.

The Joint Petition Must be Incorporated into the PSDAR to the Maximum Extent Possible

The PSDAR that is up for comment was submitted to the NRC on December 19, 2019. In the NRC license transfer proceedings, Riverkeeper raised many concerns about the inadequacy of the PSDAR, including the failure to even mention a high-pressure gas pipeline that run through the Indian Point site, the huge uncertainty in the cost estimates, and failure to analyze the need for remediation of the contaminated groundwater under the site. These concerns were largely addressed in the Joint Proposal reached during the New York State proceedings in May 2021. While the Joint Proposal addresses issues within NYS jurisdiction, fulfillment of the provisions will influence the overall decommissioning plan and the financial projections. Therefore, the PSDAR must be updated to reflect these provisions, including, but not limited to:

- Maintaining a minimum balance of no less than \$400 million in the Decommissioning Trust Fund for 10 years following the Transaction Closing Date and \$360 million from then to partial site release from the NRC.
- Requiring Holtec to return at least 50 percent of the money it recovers from the Department of Energy for spent fuel management costs to the Decommissioning Trust Fund and up to 100% if the minimum balances are projected to be breached.
- Conducting site restoration and remediation under an order on consent with the New York State Department of Environmental Conservation. Radiological contamination will

³ Letter from A. Christopher Bakken III, Entergy, to U.S. NRC, re: Application for Order Consenting to Transfers of Control of Licenses and Approving Conforming License Amendments, etc., (Nov. 21, 2019) (ADAMS Accession No. ML19326B953) (“License Transfer Application”).

be cleaned up to the state standard of 10 mrem, instead of the federal standard of 25 mrem and Holtec will provide a \$110M bond to ensure the job is completed. DEC will oversee the hazardous materials cleanup at Indian Point, including through the use of an on-site monitor.

- Providing \$75,000 annually towards the NYS Department of Public Service oversight's efforts for the first six years following Transaction Closing Date.
- Providing funds for state and local emergency management and response.
- Providing regular financial and project reporting to the state and local entities, and maintaining a website to facilitate public access to information and ensure transparency regarding project status and costs, and
- Completing the transfer of spent nuclear fuel from IP Unit 2 and 3 spent fuel pools by Dec. 31, 2024 absent a Force Majeure event, with projected Partial Site Release by the end of 2036.
- Paving the way for the State to establish a Decommissioning Oversight Board, which Holtec acknowledges the State has the right to do and agrees to provide information on request.
- Notifying the state in advance of any work that will be conducted close to the AIM pipeline, a major fracked gas pipeline that runs under the site, and
- Agreeing not to propose a new reactor at Indian Point unless the State and all the local municipalities agree.

The PSDAR should Maintain the Current Radiological Monitoring throughout the Decommissioning Process

Many of the same safety risks still exist at Indian Point regardless of its retirement, so long as spent fuel and radioactive materials remain on site. Therefore, we ask that the PSDAR provide for maintenance of the current radiological monitoring throughout the entire decommissioning process until the final site release approved by both state and federal regulatory agencies.

The PSDAR Must Account for the AIM Pipeline

As Riverkeeper previously raised, the PSDAR completely fails to mention the AIM pipeline. This 42-in high-pressure gas pipeline lies only 105 feet from critical safety infrastructure at Indian Point and thus could present a serious environmental and safety risks in conjunction with the decommissioning activities. The PSDAR's complete omission of the pipeline fails its main purpose to "ensure that the environmental impacts of the planned decommissioning process are bounded by those considered in existing environmental impact

statements.” It is ludicrous to believe Holtec fully considered all the potential environmental and safety risks of the AIM pipeline without a mention in the PSDAR.

Nor do any of the existing environmental impact statements remedy this lapse in analysis. The latest Supplemental Environmental Impact Statement (“SEIS”), and only SEIS to consider the AIM pipeline, only looks to impacts due to pipeline construction and operation on power plant operations. Decommissioning a power plant is completely different than power generation operations. Any analysis of AIM pipeline impacts during Indian Point operations is not automatically transferable to an EIS for decommissioning, and at the very least warrant a discussion on how such analysis is applicable to this significantly different process.

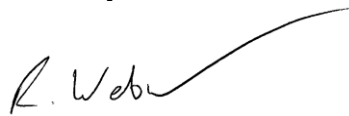
Furthermore, in February 2020, the Office of Inspector General (OIG) of the NRC issued a report confirming the many long-standing criticisms of the existing assessments of the AIM pipeline’s potential impacts and interactions with Indian Point. After its repeated failures, the NRC should take the instant opportunity to rectify its prior errors and finally require a proper, accurate assessment of the AIM pipeline’s potential impacts for Indian Point’s decommissioning to be included in the PSDAR. This should include a defining the maximum weight of equipment that can traverse the pipeline.

Conclusion

In conclusion, incorporation of the Joint Proposal provisions in the PSDAR is needed, and would address the most of the PSDAR concerns that Riverkeeper raised during the license transfer proceeding. In addition, the AIM pipeline must be considered within the PSDAR and site monitoring should be maintained throughout the entire decommissioning process. However, we note that the provisions are worthless if they are not properly implemented. Therefore, we also call upon the NRC to fulfill its duty as a regulatory body and provide strict oversight of Indian Point’s decommissioning process.

Thank you for the opportunity to submit these comments. Please feel free to contact us at 914-478-4501 or rwebster@riverkeeper.org with any questions.

Sincerely,



Richard Webster
Legal Director
Riverkeeper, Inc.