

**From:** [Daniel King](#)  
**To:** [wtaylorlaw@aol.com](mailto:wtaylorlaw@aol.com); [tjodge50@yahoo.com](mailto:tjodge50@yahoo.com)  
**Cc:** [Perry Buckberg](#); [Natreon Jordan](#); [James Kim](#); [Theresa Clark \(She\)](#); [Jamie Heisserer \(She/Her/Hers\)](#)  
**Subject:** PRB Initial Assessment - 10 CFR 2.206 Petition from Beyond Nuclear, Michigan Safe Energy Future, and Don't Waste Michigan- Holtec Decommissioning Trust Fund  
**Date:** Thursday, February 29, 2024 8:35:00 AM

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Dear Wallace Taylor and Terry Lodge:

On September 28, 2023, Holtec Decommissioning International, LLC (Holtec) on behalf of Holtec Palisades, LLC submitted a request to exempt the Palisades Nuclear Power Plant (Palisades) from certain requirements in Section 50.82, "Termination of license," of Title 10 of the *Code of Federal Regulations* (10 CFR) (ML23271A140). On December 5, 2023, you filed a petition to intervene and a request for hearing on this exemption proceeding. In denying the request for hearing (ML23352A325), the Commission referred Contention 2 of your request, regarding the misuse of decommissioning funds, to the enforcement petition process under 10 CFR 2.206, "Requests for action under this subpart."

The NRC's staff assembled a Petition Review Board (PRB) which has now completed its initial assessment of whether the petition meets the applicable acceptance criteria in NRC Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," and its associated Directive Handbook (DH) 8.11, Section III.C.1 (ML18296A043). The PRB's initial assessment is that the issues raised have already been addressed through the NRC's inspection and enforcement process, as described below.

Your justification for enforcement action is that "Holtec misused the decommissioning trust fund (DTF) to keep Palisades in a status to restart the reactor, rather than to decommission the plant." You cite paragraph (a)(8) of 10 CFR 50.82, "Termination of license," as appropriate uses of the DTF. Specific concerns listed in your petition include:

1. Holtec expended \$44 million from the Palisades DTF from June 28 to December 31, 2022 (ML23090A140).
2. Holtec continued improper utilization of Palisades DTF from December 31, 2022, to present.

Decommissioning NRC licensees are required to meet the requirements in 10 CFR 50.82, including paragraph (a)(8)(v), which states that the licensee must submit an annual financial report to the NRC with information from the previous calendar year. The basis of your contention is the licensee's annual financial report that covers calendar year 2022 (ML23090A140).

In September and November 2023 (ML23276B452 and ML24045A147, respectively), the NRC completed inspections that addressed, in part, the use of the Palisades DTF. The purpose of these inspections was to determine whether decommissioning activities were conducted safely and in accordance with NRC requirements. Inspectors reviewed documentation related to the Palisades DTF as part of these inspections and met with plant staff to discuss whether the funds were being utilized in accordance with NRC requirements. The NRC evaluated Holtec's expenditures from the

DTF, which included the \$44 million from calendar year 2022, as well as the funds spent to that point in calendar year 2023. As a result of these inspections, the NRC identified several instances, totaling just over \$57,000, in which the licensee used the Palisades DTF to pay for activities not considered legitimate decommissioning expenses per the definition in 10 CFR 50.2, "Definitions."

The NRC confirmed that the unauthorized reimbursements from the Palisades DTF were the result of inadvertent oversights and/or inattention to detail in the coding associated with the billing for various projects and community donations; that is, they were the result of human performance errors, not process-related or programmatic issues. The licensee entered the unauthorized reimbursements into the Palisades corrective action program and repaid the DTF with interest. As a result, the licensee has implemented several process revisions to address order coding modification issues/errors and training to prevent reoccurrence. In February 2024, the NRC issued Holtec a Severity Level IV Non-Cited Violation to address the illegitimate use of decommissioning funds at Palisades (ML24045A147).

Based on the above, the PRB's initial assessment is that the concerns represented in Contention 2 of your petition do not meet the DH 8.11 acceptance criteria in Section III.C.1(b)(ii). Specifically, "the issues raised have previously been the subject of a facility-specific or generic NRC staff review...", and the petition does not provide significant new information that the staff did not consider as part of the prior review. Therefore, our initial assessment is to not accept your petition for review.

Our process affords all petitioners the opportunity to clarify or supplement their petition in a virtual public meeting with the PRB. If you decide to take advantage of this opportunity, the meeting with the PRB would be conducted consistent with the format described in MD 8.11, Section III.F. The PRB will consider your statements and information presented at the meeting, along with the original petition, in making its final determination on whether to accept your petition for review. Please indicate by **March 5, 2024**, whether you wish to have this public meeting.

If you have any questions regarding this e-mail, please feel free to contact me at [Daniel.King@nrc.gov](mailto:Daniel.King@nrc.gov).

Very Respectfully,

Daniel G. King  
Project Manager/ 2.206 Petition Core Team Member  
U.S. Nuclear Regulatory Commission  
Office of Nuclear Regulation  
Office: (301) 415-1233  
[Daniel.King@nrc.gov](mailto:Daniel.King@nrc.gov)