



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 2, 2024

Wallace L. Taylor, Esq.
4403 1st Avenue SE, Suite 402
Cedar Rapids, IA 52402

Terry J. Lodge, Esq.
316 N. Michigan Street, Suite 520
Toledo, OH 43604-5627

SUBJECT: 2.206 PETITION FOR MISUSE OF PALISADES DECOMMISSIONING TRUST
FUND (EPID L-2023-CRS-0008)

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 Title 10 of the *Code of Federal Regulations* (10 CFR) 50.82, "Termination of license" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML23271A140). On December 5, 2023, you filed a petition to intervene and a request for a hearing on this exemption proceeding (ML23339A192). In denying the request for a hearing (ML23352A325), the U.S. Nuclear Regulatory Commission (NRC) 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 underlying concern in Contention 2 of your December 5, 2023, request is that "Holtec has misused the decommissioning trust fund [DTF] to keep Palisades in a status to restart the reactor, rather than to decommission the plant." You cite 10 CFR 50.82(a)(8) regarding appropriate uses of the DTF. Specifically, your petition to intervene asserted two main points:

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

The NRC staff assembled a Petition Review Board (PRB) in accordance with NRC Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," dated March 1, 2019, and its associated Directive Handbook 8.11, section III (ML18296A043). On February 29, 2024 (ML24061A014), the petition manager informed you that the PRB's initial assessment was to not accept your petition for review. The PRB's position was that the petition did not meet the criteria in MD 8.11 for accepting petitions under 10 CFR 2.206 because the issues raised regarding Holtec's use of the Palisades DTF in 2022 have already been addressed through the NRC's inspection and enforcement process.

In August 2023 and November 2023 (ML23276B452 and ML24045A147, respectively), the NRC completed inspections that addressed, in part, the use of the Palisades DTF. 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 in accordance with 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 or inattention to detail in the coding associated with the billing for various projects and community donations. The licensee has implemented several process revisions to address order coding modification issues and errors, as well as training to eliminate these issues from future reports of DTF expenditures. 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).

On February 29, 2024, along with the initial assessment, the petition manager offered you an opportunity to address the PRB in a public meeting. The NRC held this meeting on April 10, 2024. The transcript of that meeting (ML24114A016) is publicly available in ADAMS and is considered a supplement to the petition. During the April 10, 2024, meeting, you discussed DTF expenditures of \$120 million noted in the 2023 decommissioning funding status report for Palisades, which was submitted to the NRC on March 29, 2024 (ML24089A117). You also raised concerns about whether the \$120 million was properly used for decommissioning expenditures in accordance with the current NRC requirements and guidance.

Following the April 10, 2024, public meeting, the PRB met to consider what had been presented during the meeting. The PRB found that the issues regarding use of the Palisades DTF in 2022 have been addressed through the inspection and enforcement process, as noted above. Therefore, we are not accepting those issues into the 10 CFR 2.206 process. However, the concerns you raised at the public meeting regarding the recently submitted 2023 expenditure report for Palisades involve new information that the NRC has not yet fully considered. Therefore, in accordance with MD 8.11, section III.C, we are accepting that portion of your concern into the 10 CFR 2.206 process for further review. However, we are holding the petition review in abeyance until the NRC completes a review of the 2023 expenditure report for Palisades, as it is relevant to the decision on the 10 CFR 2.206 petition. In accordance with the 10 CFR 2.206 petition abeyance process, you will receive communications on the status of your petition consistent with MD 8.11. On May 15, 2024, the petition manager informed you of this outcome.

For your information, I have enclosed a copy of the draft *Federal Register* notice that acknowledges the receipt of the petition. In addition, a copy of MD 8.11, and the associated NRC Office of Nuclear Reactor Regulation brochure titled, "Enforcement Petition Process," issued March 2019 can be found in ADAMS (ML18296A043 and ML19070A037, respectively). I would like to express my appreciation for your effort in bringing these matters to the NRC's attention.

Sincerely,

/RA/

Michael King, Deputy Director
Office of Nuclear Reactor
Regulation

Docket No. 05-255

Enclosure:
Federal Register Notice

ENCLOSURE

FEDERAL REGISTER NOTICE

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-525]

Holtec Palisades, LLC

Holtec Decommissioning International, LLC

Palisades Nuclear Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: 10 CFR 2.206 request; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice that by petition dated December 5, 2023, Beyond Nuclear, Michigan State Energy Future, and Don't Waste Michigan (the petitioner) filed a petition to intervene and a request for hearing on a proceeding 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). In denying the request for hearing, the Commission referred Contention 2 of the request, regarding the misuse of decommissioning funds, to the enforcement petition process under 10 CFR 2.206, "Requests for action under this subpart." The petitioner's requests are included in the SUPPLEMENTARY INFORMATION section of this document.

DATES: This document was published in the *Federal Register* on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Please refer to Docket ID NRC-2024-XXXX when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2024-XXXX. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual(s) listed in the “For Further Information Contact” section of this document.
- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- **NRC’s PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: James S. Kim, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-4125; email: James.Kim@nrc.gov.

SUPPLEMENTARY INFORMATION:

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, the petitioner filed a petition to intervene and a request for hearing on this exemption proceeding (ML23339A192). In denying the request for hearing (ML23352A325), the Commission referred Contention 2 of the request, regarding the misuse of decommissioning funds, to the enforcement petition process under 10 CFR 2.206, “Requests for action under this subpart.”

The underlying concern in Contention 2 of the December 5, 2023, request 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.” The petitioner cited paragraph (a)(8) of 10 CFR 50.82 regarding appropriate uses of the DTF. Specifically, the petition to intervene asserted that:

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.

The staff of the U.S. Nuclear Regulatory Commission (NRC) assembled a Petition Review Board (PRB) in accordance with NRC Management Directive (MD) 8.11, “Review

Process for 10 CFR 2.206 Petitions,” and its associated Directive Handbook (DH) 8.11, Section III (ML18296A043). On February 29, 2024 (ML24061A014), the petition manager informed the petitioner that the PRB’s initial assessment was to not accept the petition for review. The PRB’s position was that the petition did not meet the MD 8.11 criteria for accepting petitions under 10 CFR 2.206 because the issues raised regarding Holtec’s use of the Palisades DTF in 2022 have already been addressed through the NRC’s inspection and enforcement process.

In September and November 2023 (ML23276B452 and ML24045A147, respectively), the NRC completed inspections that addressed, in part, the use of the Palisades DTF. 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. The licensee has implemented several process revisions to address order coding modification issues/errors, as well as training to eliminate these issues from future DTF expenditures. 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).

On February 29, 2024, along with the initial assessment, the petition manager offered the petitioner an opportunity to address the PRB in a public meeting. This meeting was held on April 10, 2024. The transcript of that meeting (ML24114A016) is publicly available in ADAMS and is considered a supplement to the petition. During the April 10, 2024, meeting, petitioner discussed DTF expenditures of \$120 million noted in

the 2023 Decommissioning Funding Status Report for Palisades, which was submitted to the NRC on March 29, 2024 (ML24089A117). The petitioner also raised concerns about whether the \$120 million was properly used for decommissioning expenditures in accordance with the current NRC requirements and guidance.

Following the April 10, 2024, public meeting, the PRB met to consider what had been presented during the meeting. The PRB found that the issues regarding use of the Palisades DTF in 2022 have been addressed through the inspection and enforcement process, as noted above. Therefore, the PRB is not accepting those issues into the 10 CFR 2.206 process. The concerns the petitioner raised at the public meeting regarding the recently submitted 2023 expenditure report for Palisades involve new information that has not yet been fully considered by the NRC. Therefore, in accordance with MD 8.11, Section III.C, the PRB is accepting that portion of the petitioner's concern into the 10 CFR 2.206 process for further review. However, the PRB is holding the petition review in abeyance until the NRC's review of the 2023 expenditure report for Palisades is complete, as it is relevant to the decision on the 10 CFR 2.206 petition.

Dated July 2, 2024.

For the Nuclear Regulatory Commission.

/RA/

Michael King, Deputy Director
Office of Nuclear Reactor Regulation

SUBJECT: 2.206 PETITION FOR MISUSE OF PALISADES DECOMMISSIONING TRUST FUND (EPID L-2023-CRS-0008) DATED JULY 2, 2024

DISTRIBUTION:

PUBLIC

RidsEdoMailCenter Resource
 RidsNrrOd Resource
 RidsNrrDorl Resource
 RidsNrrDorlLpl1 Resource
 RidsNrrDorlLpl2-1 Resource
 RidsNrrDorlLpl2-2 Resource
 RidsNrrDorlLpl3 Resource
 RidsNrrDorlLpl4 Resource
 RidsNrrDnrINvib Resource
 RidsNrrDnrINlrp Resource
 RidsNrrLASRohrer Resource
 RidsNrrMailCenter Resource
 RidsOcaMailCenter Resource
 RidsOgcMailCenter Resource

RidsOpaMail Resource
 RidsRgn2MailCenter Resource
 RidsRgn3MailCenter Resource
 RidsRgn4MailCenter Resource
 TClark, NRR
 JKim, NRR
 RTurtill,NMSS
 JPelton, NRR
 PBuckberg, NRR
 DKing, NRR
 NJordan, NRR
 VMyers, RIII
 GFlanders, RIII
 DWillis, OE

ADAMS Accession Nos.:
ML24137A196 (Package)
ML24137A014 (Letter)
ML24137A015 (FRN)

NRR-106

OFFICE	NRR/DORL/LPL1/PM	NRR/DORL/LPL3/LA	NMSS/REFS/FAB	NMSS/DUWP/RDB
NAME	JKim	SRohrer	RTurtill	MDoell
DATE	5/17/2024	5/20/2024	5/28/2024	5/20/2024
OFFICE	R-III/DRSS/DRIHPB	R-III/DRSS/DRIHPB	OGC – NLO	NRR/DORL/LPL2-2/BC
NAME	VMyers	GFlanders	RCarpenter	DWrona
DATE	5/24/2024	5/20/2024	6/6/2024	6/10/2024
OFFICE	QTE/Tech. Editor	NRR/DORL/DD	NRR/DSS/D	NRR/DD
NAME	JDougherty	JPelton	TClark	MKing
DATE	6/11/2024	6/12/2024	6/18/2024	7/2/2024

OFFICIAL RECORD COPY