

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF NUCLEAR REACTOR REGULATION

Jeremy Groom, Deputy Director

In the Matter of	)	Docket No. 50-255
	)	
	)	
	)	
Holtec Palisades, LLC and Holtec	)	License No. DPR-20
Decommissioning International, LLC	)	
	)	
Palisades Nuclear Plant	)	

**PROPOSED DIRECTOR'S DECISION UNDER 10 CFR 2.206**

**I. Introduction**

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). By letter dated December 5, 2023, and in response to Holtec's exemption request, Beyond Nuclear, Michigan Safe Energy Future, and Don't Waste Michigan (the petitioner) filed a petition to intervene and a request for hearing on that exemption request (ML23339A192). On December 18, 2023, the Commission denied the request for hearing and referred Contention 2 of the petition, which asserted Holtec's misuse of decommissioning funds, to the enforcement process under 10 CFR 2.206, "Request for action under this subpart" (ML23352A325).

The underlying concern in Contention 2 of the December 5, 2023, request is that Holtec has misused the decommissioning trust fund to keep Palisades in a status to restart the reactor,

rather than to decommission the plant. The petitioner cited 10 CFR 50.82(a)(8) regarding appropriate uses of the decommissioning trust fund (DTF). Specifically, the petition to intervene asserted the following:

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

The staff of the U.S. Nuclear Regulatory Commission (NRC) assembled a Petition Review Board (PRB) in accordance with Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," and its associated Directive Handbook 8.11, section III, dated March 1, 2019 (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 acceptance under 10 CFR 2.206 because the issues raised regarding Holtec's use of the Palisades DTF in 2022 had already been addressed through the NRC's inspection and enforcement process.

In August 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 of the licensee using the Palisades DTF to pay for activities not considered legitimate decommissioning expenses under the definition in 10 CFR 50.2, "Definitions."

The NRC confirmed that the unauthorized reimbursements from the Palisades DTF resulted from inadvertent oversights or inattention to detail, or both, 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 DTF expenditures. The licensee also reimbursed

the unauthorized expenses to the Palisades DTF. On February 20, 2024 (ML24045A147), the NRC issued Holtec a Severity Level IV noncited violation to address the illegitimate use of decommissioning funds at Palisades stemming from the staff's findings during the November 2023 inspection.

On February 29, 2024, the petition manager offered the petitioner an opportunity to address the PRB in a public meeting (ML24061A014), which subsequently took place on April 10, 2024. The transcript of that public meeting (ML24114A016) is publicly available in ADAMS and is considered a supplement to the petition.

During the April 10, 2024, public meeting, the 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 NRC requirements and guidance.

Following the April 10, 2024, public meeting, the PRB met to consider what had been presented during the session. The PRB found that the issues regarding use of the Palisades DTF in 2022 have been thoroughly addressed through the NRC's inspection and enforcement process, as noted above. Therefore, the PRB did not accept 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 involved new information that the NRC had not yet fully considered. Therefore, in accordance with MD 8.11, section III.C, the PRB accepted that portion of the petitioner's concern into the 10 CFR 2.206 process for further review.

On July 2, 2024, the NRC issued an acknowledgement letter (ML24137A014) informing the petitioner that the concerns raised in the petition, as supplemented, now met the MD 8.11 criteria for acceptance.

Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC's Library at <http://www.nrc.gov/reading->

[rm/adams.html](#). Persons who do not have access to ADAMS, who encounter problems in accessing the documents located in ADAMS, or who want to inspect publicly available documents at the NRC's Public Document Room at 11555 Rockville Pike, Rockville, MD 20852, should contact the NRC's Public Document Room reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by email at [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

### **Petitioner's Concern:**

The petitioner asserts that Holtec misused the DTF to keep Palisades in a status to restart the reactor as opposed to decommissioning the plant. Specifically, as described in the April 10, 2024, public meeting transcript, the petitioner alleged that Holtec withdrew \$120 million from the Palisades' DTF, as noted in Holtec's 2023 Decommissioning Funding Status Report, and raised concerns about whether the \$120 million was properly used for decommissioning expenditures in accordance with the current NRC requirements and guidance.

## **II. Discussion**

### **Regulatory Requirements**

The NRC has a comprehensive, regulation-based framework that provides oversight of licensee DTFs. The regulation at 10 CFR 50.82(a)(8)(i) specifies that licensees may use DTFs if the following three criteria are met:

- (A) The withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in § 50.2;
- (B) The expenditure would not reduce the value of the decommissioning trust below an amount necessary to place and maintain the reactor in a safety storage condition if unforeseen conditions or expenses arise; and
- (C) The withdrawals would not inhibit the ability of the licensee to complete funding of any shortfalls in the decommissioning trust needed to ensure the availability of funds to ultimately release the site and terminate the license.

“Decommission” is defined in 10 CFR 50.2 as—

...to remove a facility or site safely from service and reduce residual radioactivity to a level that permits—

- (1) Release of the property for the unrestricted use and termination of the license; or
- (2) Release of the property under restricted conditions and termination of the license.

Furthermore, as outlined in Regulatory Guide 1.184, Revision 1, “Decommissioning of Nuclear Power Reactors,” issued October 2013 (ML13144A840), which licensees may follow as a method of compliance with decommissioning requirements, the licensee’s ability to use the trust funds set aside for decommissioning depends on reaching certain milestones in the decommissioning process. The limitation on the accessibility of the decommissioning funds is designed to ensure that sufficient trust funds are always available to place the facility in a safe, stable condition that ultimately leads to decommissioning and license termination. Further information regarding the Palisades’ specific decommissioning plans and cost estimates can be found in the “Post Shutdown Decommissioning Activities Report [PSDAR] Including Site-Specific Decommissioning Cost Estimate [DCE] for Palisades Nuclear Plant,” dated December 23, 2020 (ML20358A232, as supplemented by ML23060A039), which the NRC reviewed and approved by letter dated May 2, 2023 (ML23087A036).

On December 13, 2021, the NRC granted Holtec an exemption (ML21286A294 and ML21286A506) from the requirements of 10 CFR 50.82(a)(8)(i)(A) to allow the use of a portion of the funds from the Palisades DTF for spent fuel management and site restoration activities at Palisades, in accordance with Holtec’s PSDAR and DCE.

### **Reported Decommissioning Expenditures for Palisades**

As described in the NRC’s letter to the petitioner dated July 2, 2024, the agency limited the scope of the 2.206 petition to a review of the new information presented during the

April 10, 2024, public meeting and the independent validation that the expenses claimed against the Palisades' DTF, not previously reviewed by the NRC, were legitimate decommissioning expenses as opposed to expenses related to the Palisades restart initiative. During the April 10, 2024, public meeting, the petitioner referenced \$120 million of decommissioning expenditures, which can be found in enclosure 4 to Holtec's 2023 Decommissioning Funding Status Report. In table 1 of enclosure 4 of that report, Holtec characterized its Palisades decommissioning expenses for 2022 and 2023 as summarized in table 1.

**Table 1 Summary of Holtec's Decommissioning  
Expenses at Palisades Since License Transfer**

HDI Decommissioning Expenditures—10 CFR 50.82(a)(8)(v)(A) Since License Transfer				
Year	License Termination	Spent Fuel Management	Site Restoration	Total <sup>1</sup>
2022	\$38M	\$6M	\$0M	\$44M
2023	\$43M	\$56M	\$0M	\$99M
Total Spent to Date	\$81M	\$62M	\$0M	\$143M <sup>2</sup>

<sup>1</sup> Columns may not add up due to rounding.

<sup>2</sup> \$120M of incurred costs have not been reimbursed as of December 31, 2023.

Note: M = million.

Holtec's report shows that a total of \$143 million of Palisades decommissioning-related expenses were accounted for, with \$44 million in expenses for 2022 and an additional \$99 million in expenses for 2023. Notably, footnote 2 to table 1 clarifies that Holtec has only withdrawn \$23 million of the \$143 million of expenses from the Palisades' DTF, and the \$120 million of expenses had not been reimbursed as of December 31, 2023. Table 2 of enclosure 4 explains that Holtec intends to withdraw the \$120 million of reimbursable funds from

the DTF during the years 2040 and 2041 (\$60 million is expected to be withdrawn each of these years). This approach ensures that sufficient money remains in the DTF to complete decommissioning and is consistent with the regulations in 10 CFR 50.82 and guidance provided in Regulatory Guide 1.184.

The NRC staff reviewed Holtec's decommissioning expenses during various routine inspections at Palisades and independently found that there have been several instances of misallocation of DTF funds, as described in the next section of this letter. The staff has taken appropriate action on these instances under its normal inspection and enforcement processes. However, as discussed below, the staff has determined that these misallocations are outside the scope of the petition because they were not related to Palisades' restart-specific initiatives.

### **NRC Inspection Activities**

The NRC staff performs routine inspections at Palisades, as required by the Decommissioning Power Reactor Inspection Program. Specifically, the NRC inspection activities at Palisades included review of Holtec's decommissioning expenditures, in accordance with NRC Inspection Procedure 71801, "Decommissioning Performance and Status Reviews at Permanently Shutdown Reactors," dated January 1, 2021 (ML20240A293). Table 2 lists the NRC staff's inspection activities, their respective inspection reports, and their associated findings. The timeframe of the selected inspection reports below cover inspections for which the NRC staff reviewed Palisades' 2023 DTF expenses and withdrawals.

**Table 2 List of NRC Staff Inspection Reports for Palisades Covering Calendar Year 2023**

Inspection Report No.	Document Date	Document ADAMS Accession No.	Findings Related to DTF
05000255/2023002	July 19, 2023	ML23200A142	None
05000255/2023003	October 4, 2023	ML23276B452	Unresolved Item (URI) 05000255/2023003-01
05000255/2023004	February 20, 2024	ML24045A147	Severity Level IV noncited violation
05000255/2024004	February 14, 2025	ML25041A225	Severity Level IV noncited violation URI 05000255/2024004-01

As previously described in the NRC's letter to the petitioner dated July 2, 2024, Holtec's use of the DTF up to October 2023 had already been reviewed by the NRC's routine inspection and enforcement processes, which independently identified several instances in which Holtec used the Palisades' DTF for nondecommissioning activities, totaling just over \$57,000. These issues have been described in detail in inspection reports 05000255/2023003, dated October 4, 2023 (ML23276B452), and 05000255/2023004, dated February 20, 2024 (ML24045A147), resulting in the NRC issuing a Severity Level IV noncited violation for Palisades.

As of the April 10, 2024, public meeting, the staff had not yet completed a review of Holtec's 2023 Decommissioning Funding Status Report and inspection of Palisades' DTF use for October through December of 2023, and therefore the petition was held in abeyance until these processes could be completed. The NRC concluded its annual financial assurance report



review for Holtec's 2023 Decommissioning Funding Status Report in a memorandum dated September 18, 2024 (ML24240A169). This review concluded that the licensee continued to satisfy the decommissioning funding assurance requirements of 10 CFR 50.82. In November 2024, the NRC conducted its routine DTF inspection at Palisades, which is documented in Inspection Report Nos. 05000255/2024004, dated February 14, 2025 (ML25041A225). This inspection concluded that no withdrawals from the DTF were made from October 1 through December 31, 2023, which is the timeframe encompassed by the petitioner's concern that had not already been reviewed when the staff accepted the petition. However, the inspection report does document several withdrawals made in 2024 that were not for legitimate decommissioning activities, which constituted a violation of NRC requirements. This review did not identify any withdrawals from the DTF for restart-specific activities; however, the inspectors opened an unresolved item to address questions related to use of the DTF for routine site maintenance costs because the inspection identified that the licensee continued to use the DTF for these expenditures in 2024. The NRC will address these issues through its normal inspection and enforcement processes and, because they do not concern withdrawals for restart-specific activities, they are beyond the scope of this 2.206 petition.

### **III. Conclusion**

In summary, the NRC has a comprehensive, regulation-based framework that provides for oversight of a licensee's use of the DTF. The staff reviewed Holtec's 2023 Decommissioning Funding Status Report for Palisades, in addition to Holtec's 2023 decommissioning expenditures, and found that the NRC's inspection and enforcement process independently identified instances of DTF misuse for which the agency issued applicable violations as required by regulations. The sole unresolved item from the staff's inspections related to misuse of the DTF during the relevant timeframe does not relate to restart-specific activities. Therefore, based on the NRC's continuous oversight of Holtec's use of the Palisades' DTF, no further action is necessary at this time to address the petitioner's concern.

As a result of the NRC staff's evaluation of the petitioner's concerns, the Office of Nuclear Reactor Regulation has denied the petitioners' request to take enforcement action concerning Holtec's use of the Palisades' DTF. The PRB concludes that the issues raised regarding Holtec's use of the Palisades DTF in 2023 have already been addressed through the NRC's inspection and enforcement process, that violations related to these inspection findings have already been cited, and that there is no indication that withdrawals from the DTF were for restart-specific activities. Therefore, there is insufficient basis on which to take further enforcement-related action against Holtec, and the petitioner's request is denied.

In accordance with 10 CFR 2.206(c), a copy of this director's decision will be filed with the Secretary of the Commission for Commission review. As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this XXth day of <Month Year>.

For the Nuclear Regulatory Commission

Jeremy R. Groom, Acting Deputy Director,  
Office of Nuclear Reactor Regulation