



Beyond Nuclear
7304 Carroll Avenue, #182
Takoma Park, MD 20912
Tel: 301.270.2209
Email: info@beyondnuclear.org
Web: www.beyondnuclear.org

January 12, 2021

To: The Honorable Andrew M. Cuomo
Governor of New York State
New York State Executive Chamber
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo,

As you know, Entergy proposes to sell the Indian Point nuclear power plant to a subsidiary of Holtec International to decommission the plant, as well as take over the management of the highly radioactive irradiated nuclear fuel. The sale was approved by the U.S. Nuclear Regulatory Commission (NRC). This was done over New York's objections, without addressing the concerns about Holtec that New York has raised, and without holding hearings on the matter that New York State, and the New York U.S. congressional delegation, have requested. Thank you for stating clearly this was unacceptable, and that the State is considering all options. Those options can and should include the following:

- **Working with the Congressional delegation to request a federal hearing on license transfer** -- It is urgent to establish more active Congressional oversight of NRC decisions on license transfer, decommissioning, and highly radioactive waste management, in New York and other states.
- **Demanding Indian Point license transfer be held in abeyance until the Biden administration appoints new NRC leadership** -- NRC Chairman Kristine Svinicki announced her resignation on January 4, 2021, to take effect on January 20th, which means the Biden administration will appoint a new commissioner to replace her, as well as a new Chairman to lead the NRC. This will almost certainly shift the majority among the commissioners, and the direction of the NRC. That being the case, the new leadership should have a chance to respond to the State's call for hearings and to adjudicate its concerns before license transfer is treated as a *fait accompli*.
- **Demanding a hearing on Indian Point license transfer to Holtec at the NRC's Atomic Safety and Licensing Board (ASLB)** -- The overwhelming

evidence is that NRC public comment hearings don't change prior NRC decisions; they just allow the NRC to say it has listened to stakeholders, then to go ahead and do what it intended to do in the first place. But an ASLB hearing would be important, whether or not it would change the minds of NRC commissioners or staff, because it is a necessary prerequisite for challenging Indian Point license transfer in federal court.

- **Challenging Indian Point license transfer in federal court --** This is a necessary step, unless and until NRC sees fit to address substantively the concerns or contentions the State and citizens' groups have raised about Holtec taking over Indian Point.
- **Asserting Public Service Commission (PSC) jurisdiction --** There is a strong legal and ethical basis for the State exercising authority over license transfer approval and consequential decommissioning decisions that are not federally preempted. The PSC, and other relevant state agencies, have both the power and the obligation to weigh in on them. Given Holtec's egregious record, it is not only possible, but necessary, for the PSC to assert its jurisdiction over license transfer approval. It should refuse to approve Holtec as the licensee.

Transferring Indian Point's licenses to Holtec poses significant risks to New York, including threats to public health and safety, environmental impacts on the surrounding area and the Hudson, and negative impacts on the state's economy and fiscal health. Holtec and its partner company, SNC-Lavalin of Montreal, Quebec, have been caught multiple times in bribery, fraud, and malfeasance, and Holtec is currently under criminal investigation in New Jersey. Holtec lacks the necessary qualifications to hold Indian Point's licenses in terms of financial assurance, technical expertise, and decommissioning experience. Its track record on decommissioning and highly radioactive spent fuel handling includes:

- Leveraging public monies for its own profit without bringing any of its own to decommissioning work;
- Using a subsidiary structure which would enable it, if it chooses, to leave decommissioning work at Indian Point half done, declare bankruptcy, and walk away without liability, leaving the State and municipalities to bear the costs and risks;
- Using its own flawed and gouged casks for dry storage of highly radioactive spent fuel — casks whose design Holtec changed in safety-significant ways without even seeking the required NRC permission;
- A near-miss accident in transferring irradiated nuclear fuel to its dry casks, which could have resulted in a severe radiological release, at the San Onofre Nuclear Generating Station in California;
- Indicating in an improperly filed Post Shutdown Decommissioning Activities Report (PSDAR) that it plans to do nothing to remediate known radioactive contamination of groundwater and the Hudson at Indian Point, and would remediate contaminated soil only superficially; Holtec's PSDAR also envisioned shipping highly radioactive spent fuel down the Hudson by barge, including past Manhattan;

- Cutting costs and corners, such as excluding trained union workers, and hiring unskilled workers, for such safety-critical tasks as pipe fitting, in order to save money.

A comprehensive backgrounder with source links prepared by Hudson River Sloop Clearwater, Inc., attached, documents Holtec's record. Simply put, there's ample reason to worry Holtec could do a superficial job of decommissioning, exhaust Indian Point's decommissioning trust fund and other public monies, walk away with no liability, and leave the State and the communities downwind and downstream to bear the risks and costs of a radioactively contaminated site over the long term. It's happened to other reactor communities before.

The track record of Holtec and its partner company SNC-Lavalin includes repeated bribery and fraud convictions, and Holtec getting barred by the Tennessee Valley Authority, and SNC-Lavalin by the World Bank, both unprecedented actions. Holtec is currently under ongoing criminal investigation for allegedly lying, under oath, to officials in New Jersey, on a \$260 million state tax break application form.

Holtec has denigrated and ignored input from citizen advisory panels and sued Lacey Township, New Jersey (the site of the Oyster Creek Nuclear Generating Station) to assert that the company need not comply with town regulations such as building permits.

Conflicts of interest and a high potential for self-dealing regarding its side businesses heighten the risk that Holtec will make decisions prioritizing its profits over public health and safety. Holtec's sidelines include a "consolidated interim storage facility" for irradiated nuclear fuel it is trying to license in New Mexico, which would entail risks in shipping "spent" fuel, which is intensely radioactive, across the country, and building small modular reactors (SMRs), which could be fueled with fissile materials from reprocessed spent fuel.

While it was still negotiating to acquire the license of the Oyster Creek plant, Holtec [told journalists](#) it saw no market for SMRs in the U.S., and that they were only intended for overseas markets like Ukraine. Now that it owns Oyster Creek, Holtec has reversed itself and [announced](#) it plans to install SMRs at the Jersey Shore plant site. This is cause for concern that Holtec has the same ulterior motive and agenda for Indian Point, which sits atop major transmission lines to New York City. Scientists [warn](#) that SMRs are not, as Holtec claims, "walk-away safe." They would generate yet more radioactive waste, threats, and negative impacts on New Yorkers' health and safety.

New York needs a competent, trustworthy Indian Point licensee which is qualified to conduct safe decommissioning. New Yorkers need and deserve a licensee which will not raid and abuse the decommissioning trust fund, which will take State and local authority and public concerns seriously, which will make decisions about radioactive waste and site remediation in order to protect public safety as the top priority, as opposed to maximizing its own profits, and which will neither walk away without liability leaving

the site unremediated, nor threaten to re-nuclearize Indian Point after the State rightly decided to close and decommission the plant.

Holtec clearly is not that licensee. The risks it would pose to New York, if it takes over Indian Point, are unacceptable. They're also preventable. While the Nuclear Regulatory Commission has sole jurisdiction over radiological safety issues, states are far from powerless. They can and should assert their authority over numerous other aspects of the license transfer and decommissioning decisions.

Also attached are some briefing materials from my organization Beyond Nuclear explaining the risks that the current decommissioning business model -- and Holtec in particular -- pose, and what the State can do to protect New Yorkers from them. It's a complex subject, but one that's important to understand in detail to protect the State's vital interests. Beyond Nuclear is experienced in this area, and we're in close touch with citizens' groups in New York working toward the same goal of protecting New York's residents, environment and economy. We'd welcome a dialogue with you on it.

Thank you for considering our concerns. We will follow up with your office in the near future. Meanwhile please see the attached, and please contact Kevin Kamps with any questions. His full contact information is immediately below.

Sincerely,

Robert Alpern, Esq.
140 Eighth Avenue
Brooklyn, N.Y. 11215

Kevin Kamps
Radioactive Waste Specialist
Beyond Nuclear
7304 Carroll Avenue, #182
Takoma Park, Maryland 20912
Cell phone: (240) 462-3216
Email: kevin@beyondnuclear.org