



**Beyond Nuclear**  
7304 Carroll Avenue, #182  
Takoma Park, MD 20912  
Tel: 301.270.2209  
Email: [info@beyondnuclear.org](mailto:info@beyondnuclear.org)  
Web: [www.beyondnuclear.org](http://www.beyondnuclear.org)

April 27, 2021

To:

The Honorable Chuck Schumer  
United States Senate  
322 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Ed Markey  
United States Senate  
255 Dirksen Senate Office Building  
Office Building  
Washington, DC 20510

The Honorable Kirsten Gillibrand  
United States Senate  
478 Russell Senate Office Building  
Washington, DC 20510

The Honorable Carolyn Maloney  
U.S. House of Representatives  
2308 Rayburn House Office Building  
Washington, DC 20515

The Honorable Sean Patrick Maloney  
U.S. House of Representatives  
464 Cannon House Office Building  
Washington, DC 20515

The Honorable Mondaire Jones  
U.S. House of Representatives  
1017 Longworth House Office Building  
Washington, DC 20515-3217

The Honorable Jamaal Bowman  
U.S. House of Representatives  
1605 Longworth House Office Building  
Washington, DC 20515

Dear Senators and Representatives:

We are writing to follow up on the joint letter of November 16 to the Nuclear Regulatory Commission (NRC), signed by Senators Schumer and Gillibrand, and by Representatives Nita Lowey, Eliot Engel and Sean Patrick Maloney, concerning requests from multiple stakeholders for hearings on the matter of transferring Indian Point's licenses to Holtec.

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New York State, local municipalities, and citizens groups had many well-founded concerns and objections regarding Holtec acquiring Indian Point, which the NRC ignored. “As a matter of process,” you wrote, “the Commission must fully adjudicate all pending petitions before issuing a determination on the Indian Point license transfer application.” As you know, that didn’t happen. The NRC approved license transfer to Holtec without holding hearings or fully adjudicating requests for them.

That being the case, on February 18, 2021, we wrote to Representative Mondaire Jones to request a Congressional hearing on license transfer and related issues. We sent the attached materials on license transfer, which we had previously sent to Governor Cuomo, Attorney General James and other State officials, and requested that Rep. Jones:

“help propose and arrange a Congressional hearing on the NRC’s license transfer approval procedures and other recent decisions that have rubber-stamped virtually whatever nuclear owners propose while cutting states and stakeholders out of the process. We understand that as the member of Congress representing the district where Indian Point is located, you could work with the appropriate committees of Congress to request a hearing, and/or arrange a “field hearing” or “district hearing” in New York’s 17<sup>th</sup> District.

Such a hearing is urgently needed, and the attached package to Governor Cuomo goes into more detail about the concerns it could air. For example, the NRC has repeatedly given licenses to Holtec over states’ objections, without deigning to even hold hearings. It routinely exempts Holtec and other decommissioning companies from safety regulations. It also routinely approves on request previously impermissible uses of the decommissioning trust funds. It has fast-tracked licensing proceedings for “consolidated interim storage facilities” for spent fuel despite the whole CISF business model being illegal under the Nuclear Waste Policy Act. It summarily dismisses credible contentions and concerns raised by qualified experts about problems with CISFs and spent fuel dry storage systems as “not credible,” while accepting uncritically and without evidence the assertions of Holtec that nothing can go wrong. It’s a pattern of behavior that demands investigation and oversight.”

We’re writing today to reiterate this request for a Congressional hearing. This month the New York State Public Service Commission (PSC) negotiated a joint settlement proposal with Entergy, Holtec, and stakeholder groups to approve Indian Point license transfer to Holtec in exchange for certain concessions on financial assurance and state oversight. The PSC will vote on whether to adopt the proposal in May. Beyond Nuclear and other environmental and citizen’s groups oppose the proposed settlement. But even assuming it is adopted, it still does not address, let alone remedy, many of the objections that stakeholders raised to Holtec acquiring Indian Point, which also apply to Holtec acquiring other nuclear plants. That’s why Congressional hearings are still needed, now more than ever.

For example, the proposed settlement does not remedy or address the fact that Holtec is not a trustworthy candidate to be Indian Point’s licensee. Holtec and its partner company, SNC-Lavalin, have been caught multiple times in bribery, fraud, and malfeasance, and Holtec is currently

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under criminal investigation in New Jersey for lying to state officials. Local objections to Holtec license applications have, thus far, prompted Attorneys General in four states (Massachusetts, New York, Michigan, and now New Mexico) to intervene against Holtec's various licensing schemes, and/or even to sue the NRC about them.

If adopted the proposed New York settlement will do nothing about the fact that Holtec will use its own flawed and gouged canisters for dry storage of highly radioactive spent fuel — canisters which evidence indicates could fail and leak lethal radioactivity in less than two decades – with no provision or ability to repair or even monitor failing canisters. The proposed settlement does not address the fact that Holtec plans to do nothing to remediate known radioactive contamination of groundwater and the Hudson at Indian Point, that it plans to remediate contaminated soil only superficially, or that it envisions shipping highly radioactive spent fuel down the Hudson by barge, which is an unacceptably dangerous proposition.

It's true that New York may have somewhat more ability to oversee Holtec's decommissioning work than other states, especially since the creation of the NYS Decommissioning Oversight Board. It's also true that the proposed settlement makes at least some provision for bonding and may mitigate the windfall Holtec would otherwise receive from paying itself out the decommissioning trust fund plus suing the Department of Energy for spent fuel management expenses (under certain conditions, the proposed settlement would require some of that \$600 million windfall to go back into the DTF instead of Holtec's pocket). But while these outcomes of the PSC negotiations are better than nothing, they serve to illustrate the very limited, inadequate ability of states to fill the vacuum left by the NRC not doing its job.

The NRC is not serving its mission of protecting the public and the environment. Approving license transfer to Holtec while ignoring stakeholder requests for hearings is just one case in point of a much broader pattern that needs Congressional oversight. The NRC routinely stonewalls stakeholder concerns and requests to enforce its own regulations and procedures, while it routinely and readily approves nuclear licensees' requests for regulatory relief. From 1975 to 2012, an estimated 1000 petitions for the NRC to take enforcement actions were filed under Section 2.206. The NRC summarily dismissed about two thirds of them without reviewing them. Of the 387 the NRC's Petition Review Board (PRB) agreed to consider, only *two* were granted substantive relief -- one of which was brought by the nuclear industry. By contrast, each year the NRC grants over 800 exemption requests from the nuclear industry for regulatory relief (i.e., to be exempted from existing NRC regulations). These industry requests are rarely if ever questioned, and have been granted on the basis of a phone call in as little as an hour.

Two backgrounders prepared by the Hudson River Sloop Clearwater are attached. One lays out in detail, with citations of sources, Holtec's troubling track record.

The other summarizes the problems with Holtec's spent fuel storage systems and fast decommissioning business model, the broad pattern of NRC decisions stonewalling public concerns while rubber-stamping licensee requests, and recommendations for achieving more evidence-based U.S. policy on nuclear energy. Its concluding recommendation is to:

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**“Call for reforms and exert closer Congressional oversight of the NRC.** Oversight should include Congressional hearings inquiring into the NRC’s pattern of dismissing and denying virtually all public petitions for regulatory enforcement while granting virtually all industry requests for regulatory relief, license extension, etc. Congress should require NRC reforms that hold the Commission accountable for regulatory enforcement according to science, law, and regulation, following its own rules regarding transparency and furnishing documentation of the evidence basis for its decisions, and providing the public with meaningful ways to weigh in.”

This is a national issue that deserves Congress’ attention. The community around Indian Point is not the only one that needs much greater responsiveness and accountability from the NRC. Holtec is decommissioning Oyster Creek in New Jersey, where it has been at odds with the community, and it is seeking to acquire other nuclear plants in Michigan and elsewhere. Other decommissioning companies are pursuing a similar fast decommissioning model entailing similar risks to communities. Holtec is also seeking to license its consolidated interim storage facility (CISF) in New Mexico, which violates environmental justice and consent-based siting principles as well as federal law. Holtec says it is on track to open the facility in 2023, at which time it expects to receive thousands of shipments of highly radioactive spent fuel from nuclear plants across the country, which will pass through 75% of Congressional districts, posing radiological risks all along the way.

The vacuum the NRC has left by lax oversight and failure to follow its own regulations and procedures makes the risks connected to fast decommissioning and CISFs more acute. Before those risks result in a major radiological release, we urge you to exert more robust oversight of the NRC. Hearings could be held in relevant Congressional committees, including the House Committee on Oversight and Reform, and/or in New York’s 17<sup>th</sup> Congressional district as appropriate.

Respectfully,

/s/ Robert Alpern  
Robert Alpern, Esq.  
140 Eighth Avenue  
Brooklyn, New York 11215

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

/s/ Steve Stanne  
Board President  
Hudson River Sloop Clearwater  
724 Wolcott Ave  
Beacon, NY 12508  
(845) 265-8080

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