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Sent: Friday, April 09, 2021 6:13 PM

To: Lubinski, John <John.Lubinski@nrc.gov>

Cc: Chairman Resource <Chairman.Resource@nrc.gov>; CMRBARAN Resource <CMRBARAN@nrc.gov>; Bartley, Malion <Malion.Bartley@nrc.gov>

Subject: [External_Sender] NRC letter of April 9, 2021

Dear Mr. Lubinski,

Thank you for your letter of April 9, 2021.

Your letter presented the NRC processes it used to derive at its conclusions about the acceptability of the financial and technical qualifications of Holtec Decommissioning International (HDI) and steps the NRC might take to assure additional financial assurance to cover any financial shortfalls. Your letter, unfortunately, did not address any of the defects in the HDI analyses that were identified in the critique I submitted. Further, the critique pointed out that the processes the NRC hoped to use to address financial shortfalls, also has serious defects. These additional defects also were not addressed in your letter. It is my view that the NRC used a flawed process to reach its conclusions and, as a result, has put the citizens of New York at financial risk. At worst, the failure of HDI to adequately complete the decommissioning of Indian Point could result in a nuclear waste dump on the Hudson River.

Here are just two highlights from my critique that your letter did not discuss:

1.0 Underfunding of IP2 (See Section 4 of the critique)

Indian Point 2 and Indian Point 3 are sister plants and are virtually identical. Everyone is in agreement with the similarity of their designs. Common sense tells us that the cost to decommission each of these plants should be very similar. In fact, all across the United States where sister plants are on the same site, their decommissioning costs are very close, if not identical. We see such similar decommissioning costs among sister plants in the Site Specific Decommissioning Cost Estimates and in the radiological decommissioning cost estimates provided in the NRC's own SECY-18-0078 "Summary of Staff Review and Findings of the 2017 Decommissioning Fund Status Reports From Operating Power Reactor Licensees and Power Reactor Licensees in Decommissioning". In fact, this NRC SECY, unlike HDI or the staff's Safety Evaluation, listed identical radiological cost estimates for IP2 and IP3.

The IP2 DTF appears to be seriously underfunded. HDI claims that decommissioning IP2 would cost about \$301 million dollars less than the cost for decommissioning IP3. The HDI claims are unique. What makes the IP2 decommissioning costs so different from those at IP3? The only thing we know with reasonable certainty is the amounts of money that was in the IP2 and IP3 DTFs when HDI submitted its PSDAR. At that time the IP3 DTF was \$262 million dollars larger than the IP2 DTF. When a DTF had less money in it, HDI calculated that less decommissioning money would be needed. When

a trust fund had more money in it, HDI calculated that more decommissioning money would be needed, even if two nuclear plants were virtually identical.

The NRC staff probed this very large cost difference and HDI came up with a series of responses. These HDI responses were identified, in a broad unquantified way, in the staff's November, 2020 Safety Evaluation. As shown in the critique, these "excuses" were closely examined and failed to explain this large IP2-to-IP3 decommissioning cost difference. In fact, the HDI "excuses" were often refuted using quantitative data that appears in the HDI PSDAR, the very same report that the staff's Safety Evaluation stated on page 26 *"The staff will only review the HDI PSDAR itself if and when the proposed license transfer transaction is consummated"*. This implies that the staff did not thoroughly investigate the accuracy of the HDI cost difference explanations. This admission by the staff should be enough to stop this whole license transfer process. The very decommissioning cost analyses presented in HDI's Tables 5-1a, 5-1b, and 5-1c for IP1, IP2, and IP3, respectively, are derived from and appear in the HDI PSDAR. How can the staff have confidence in any of the information HDI has provided if it hasn't evaluated the accuracy of these three tables which the staff acknowledges are fundamental to the License Transfer Application?

The critique used alternative analyses to evaluate the HDI claim that the \$301 million dollar difference was justified. These independent alternative analyses were made because the staff did not present any independent quantitative analysis of the three critically important HDI Tables. The HDI IP2 decommissioning cost estimate was reanalyzed using exactly the same data, assumptions, and methods HDI used, but replaced HDI IP2 withdrawal rate cost figures with HDI IP3 withdrawal rate cost figures. (Critique, page 56). Results were presented in exactly the same format that HDI used. This reanalysis showed that IP2's trust fund would become **insolvent around year 2031**. After burning through the \$654 million dollars presently in the IP2 trust fund and then going broke, there would still be about \$300 million dollars worth of radiological and non-radiological tasks yet to be completed.

Does the NRC find this acceptable?

2.0 Flaws in the NRC's Compensatory Schemes (See Section 5.5 of the critique)

The NRC staff has identified two main methods by which HDI financial shortfalls might be overcome. They do not work.

First, the NRC claimed that it could draw upon projected surpluses that might be available by around 2061 to pay for shortfalls that might occur along the path to completing decommissioning. However, if the staff had performed alternative analyses, such as those in the critique, it likely would have noticed that failure scenarios (and there are many) have specific trust funds becoming insolvent prior to the completion of all radiological and non-radiological tasks. When trust funds become insolvent before decommissioning is completed, there are no surpluses to draw upon. Surpluses can

only occur during success scenarios, but under those circumstances there is no need to draw upon such surpluses. Further, the timing is inappropriate. The need to correct financial shortfalls is when they are detected, not years hence based on a questionable analysis of how much and when surpluses might occur.

Second, the NRC claims to look to the Treasury for payments because DOE has not fulfilled its obligations to remove the spent fuel from the Indian Point site. As pointed out in the critique, without performing alternative analyses neither the NRC nor HDI know the sizes of potential shortfalls or when they might happen. Nor does the NRC or HDI know when or if the Treasury will make such payments or their size. Further, HDI assumes, and the NRC staff allows, that DOE might begin to remove spent fuel from Indian Point starting around 2030. If that turned out to be the case, no further Treasury payments might be forthcoming, yet several alternative analyses show that the time when a DTF might become insolvent could be after 2030, i.e., after the assumed start of the DOE spent fuel removal program.

Mr. Lubinski, your letter stated "*I recognize your disappointment with these decisions...*" I'm not disappointed with the decisions so much as I am disappointed with the NRC staff. As a former Atomic Energy Commission staff member and responsible for the licensing of IP3, I am more than disappointed, I am embarrassed by the quality of NRC staff's efforts on this important issue.

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