

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

Dear Congressman Jones,

It's a pleasure to be able to write to you as a sitting member of Congress. Thank you for the very welcome [statements](#) you've already made and the sensible positions you've taken on the Indian Point nuclear power plant, including on the need for oversight of its decommissioning and irradiated nuclear fuel (aka "spent" fuel) disposition, and holding Holtec accountable. We're part of that circle of longtime advocates you talked about for whom these issues are personal. We're writing with a personal request and some timely information and recommendations concerning decommissioning, Indian Point and Holtec.

Attached you'll find a package of materials we sent to Governor Cuomo, Attorney General James and other New York State officials in mid-January, including a letter on what options New York has for exerting some authority over Indian Point license transfer to Holtec, a short [fact sheet](#) on nuclear plant decommissioning, a [backgrounder](#) on use and abuse of decommissioning trust funds, and comments filed with the U.S. Nuclear Regulatory Commission (NRC) documenting the disturbing track record of Holtec International and its partner company SNC-Lavalin of Canada.

Holtec and SNC-Lavalin are partners in the joint venture Comprehensive Decommissioning Inc. which proposes to decommission Indian Point. But their record is full of documented instances of malfeasance, bribery, fraud, and disbarment, and Holtec is currently under [criminal investigation](#) in New Jersey. Reviewing the attached material documenting its record will amply demonstrate why Holtec/CDI is not qualified to be the Indian Point licensee.

Among other things, our letter and supporting documents advised the Governor, the Attorney General and other New York State officials that the State was not powerless over the license transfer and Holtec's decisions about how to spend Indian Point's \$2.3 billion decommissioning trust fund (DTF) and how to decommission the plant. Its plans include raiding the DTF to reimburse itself twice over for spent fuel management, only superficially remediating the soil where radioactive contamination goes down much deeper, doing nothing about the radiation (including the lethal isotope strontium-90) leaking into the groundwater and the Hudson River, and using its own dry cask transfer and storage systems which have already failed in significant ways at the San Onofre nuclear plant in California. It also envisions shipping Indian Point's large irradiated components, likely including its inventory of highly irradiated "spent" nuclear fuel, by barge down the Hudson -- an extremely dangerous proposition. Unless and until the NRC sees fit to address substantively the concerns the State and citizens' groups have raised about

Holtec taking over Indian Point, our letter argued, the State's options for recourse can and should include challenging the NRC's approval of Indian Point license transfer to Holtec in federal court.

This is in fact what happened. On January 22, 2021 (about ten days after our package was received) Attorney General James filed a petition of review in federal court of the recent NRC actions including approval of license transfer from Entergy to Holtec, denial of New York's petition to intervene in the license transfer, and granting Holtec exemptions from certain federal regulations on the permissible uses of the IP decommissioning trust fund.

This is a very welcome and necessary development. But even assuming it results in a *post facto* NRC public hearing on license transfer to Holtec, that won't be sufficient to establish effective oversight of Indian Point license transfer and decommissioning decisions. NRC public hearings provide a forum for stakeholders to air their concerns and ask questions, but the NRC does little more in these settings than listen. It's under no obligation to act on the input it gets in these hearings, and instances where public input of any sort altered prior NRC positions in any way are very rare indeed.

When the NRC summarily approved license transfer of the shuttered Massachusetts' Pilgrim nuclear plant to Holtec, also without hearings and without addressing the objections the State of Massachusetts and members of the Massachusetts congressional delegation raised about Holtec becoming the licensee, Massachusetts Attorney General Maura Healey sued the NRC and obtained a settlement. The settlement extracted some modest concessions from Holtec – the best the State could do in a bad situation. But New York, as well as Michigan and other states where Holtec is working to acquire shuttered nuclear plants, must do better.

It's untenable for the NRC to be so beholden to its nuclear owner clients (who fund 90% of its budget), and so insulated from accountability to state governments, reactor communities and ordinary citizens, that it can force them to accept against their will, without so much as a hearing, such an unqualified licensee as Holtec.

The attached package documents Holtec's many instances of malfeasance, its lack of verifiable capitalization, its egregiously bad record on spent fuel management, its lack of experience in decommissioning nuclear plants, its pattern of arrogantly dismissing and denigrating public input or oversight and suing reactor communities to evade local laws, and its self-serving "vertical integration" agenda, which focuses on profiting at public expense rather than public health and safety.

That agenda includes shipping highly irradiated "spent" fuel across the country to its own "consolidated interim storage facility" in New Mexico, which the NRC seems bent on licensing even though it violates the Nuclear Waste Policy Act and the principles of consent-based siting and environmental justice. New Mexico's residents and the Governor Lujan Grisham oppose the project, and New Mexico's First Nations and communities of color are already disproportionately impacted by the nuclear industry. Holtec's vertical integration plans apparently also include re-nuclearizing decommissioned nuclear plants it acquires by installing small modular reactors it plans to build. Holtec recently announced its intention to install one of its SMRs at the closed Oyster Creek nuclear plant in New Jersey. We're concerned this may also be part of their ultimate agenda for Indian Point.

In a late-breaking development, the NYS Public Service Commission just announced a public comment proceeding to gather comments and statements on Indian Point license transfer to Holtec, including two public meetings on February 23, 2021. This is a routine proceeding requested by Entergy and

Holtec's subsidiary Nuclear Asset Management LLC. Their petition is framed to favor Indian Point license transfer to Holtec, i.e. they request that the PSC either disclaim any jurisdiction over license transfer, or else approve the license transfer. So while it will give the public a chance to comment, the proceeding is unlikely to result in the PSC asserting jurisdiction over license transfer and rejecting Holtec as the licensee. It's more analogous to public NRC hearings in that sense: a forum for comment, but not likely to be a forum for serious consideration of challenges to the NRC's summary approval of license transfer to Holtec over State and local objections.

The wave of nuclear plant closings and decommissioning decisions is a relatively new and rapidly growing phenomenon, and New York (Indian Point in particular) will be an important test case for establishing some sort of NRC accountability to States and reactor communities concerning decommissioning. But meanwhile, the NRC is supposed to be accountable to Congress. We're writing to you now to ask for two kinds of help to encourage Congress hold it accountable:

1. 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.

2. Help us get members of Congress and federal agencies the information they need to make informed decisions on these issues. With important legislation including amendments to the Nuclear Waste Policy Act pending this year, we're working with citizens' groups including Hudson River Sloop Clearwater, Riverkeeper and others to arrange a (virtual) Congressional briefing on decommissioning and spent fuel disposition and related issues. We're collaborating with the Environment and Energy Study Institute (EESI) on it, and have scheduled it for March 30 or March 31. You can view the previous briefings we've done on nuclear decommissioning and nuclear waste issues on EESI's website, [eesi.org](https://www.eesi.org).<sup>1</sup>

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<sup>1</sup> There have been three of them so far, starting in the summer of 2018. See: <https://www.eesi.org/briefings/view/071618nuclear> , <https://www.eesi.org/briefings/view/051319nuclear> , and <https://www.eesi.org/briefings/view/111320nuclear>

You could help us with the late March briefing in two ways. First, we hope you will consider recording a brief video statement (e.g. three minutes) to introduce the briefing. EESI assures us that will help attract more participants.

Second, we'd like to request a Dear Colleague letter to members of the relevant Congressional committees inviting them and their staffs to attend. Of course, you and your staff are invited. We know members of Congress are unlikely to attend when Congress is in session, but our previous briefings have attracted large numbers of Congressional and agency staff, as well as journalists. EESI will reach out to Congress and relevant agencies. The request for a Dear Colleague letter came from Amory Lovins of the Rocky Mountain Institute, who will be one of our expert briefers.

If you're open to helping us in these ways with the late March briefing, we can work with your staff to get you the details and answer questions about the briefing.

Thank you for your consideration. This is a lot to take in, and we'd welcome a chance to discuss it with you and your staff. We will follow up with your office in the near future. Meanwhile please see the attached, and please contact Kevin Kamps with any questions.

Sincerely,

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Encs.