



NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-003, 50-247, and 50-286; NRC-2020-0239]

Holtec Decommissioning International, LLC; Indian Point Nuclear Generating Unit Nos. 1, 2, and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption in response to the February 12, 2020, request from Holtec Decommissioning International, LLC (HDI) related to Indian Point Nuclear Generating Unit Nos. 1, 2, and 3 (referred to individually as IP1, IP2, and IP3, respectively, and collectively as the Indian Point Energy Center or IPEC), located in Westchester County, New York. The exemption would permit HDI to use funds from the IP1, IP2, and IP3 nuclear decommissioning trusts (NDTs) for spent fuel management and site restoration activities for IP1, IP2, and IP3, respectively. The exemption would also allow such withdrawals without prior notification to the NRC. The NRC staff is issuing an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) associated with the proposed exemption.

DATES: The EA and FONSI referenced in this document are available on November 10, 2020.

ADDRESSES: Please refer to Docket ID **NRC-2020-0239** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2020-0239**. Address questions about Docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail:

Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the **AVAILABILITY OF DOCUMENTS** section of this document.

- **Attention:** The PDR, where you may examine and purchase copies of public documents, is currently closed. You may submit your request to the PDR by e-mail to PDR.Resource@nrc.gov or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard V. Guzman, Office of Nuclear Reactor Regulation; U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1030; e-mail: Richard.Guzman@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an exemption from sections 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv) of title 10 of the *Code of Federal Regulations* (10 CFR) to HDI for Provisional Operating License No. DPR-5 and Renewed Facility Operating License Nos. DPR-26 and DPR-64 for IP1, IP2, and IP3, respectively, located in Westchester County, New York. HDI requested the exemption by letter dated February 12, 2020 (ADAMS Accession No. ML20043C539). The exemption would permit HDI to use funds from the IP1, IP2, and IP3 NDTs for spent fuel management and site restoration activities for IP1,

IP2, and IP3, respectively, in the same manner that funds from the NDTs are used under 10 CFR 50.82(a)(8) for decommissioning activities. HDI submitted the exemption request based on its analysis of the expected IP1, IP2, and IP3 decommissioning costs, spent fuel management costs, and site restoration costs, as provided in the IPEC Post-Shutdown Decommissioning Activities Report (PSDAR) using the prompt decontamination and dismantlement (DECON) method submitted by HDI to the NRC on December 19, 2019 (ADAMS Accession No. ML19354A698).

By letter dated November 21, 2019 (ADAMS Accession No. ML19326B953), Entergy Nuclear Operations, Inc. (ENOI), on behalf of itself, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, Holtec International (Holtec), and HDI (collectively, the applicants), requested that the NRC consent to the transfer of control of Provisional Operating License No. DPR-5 and Renewed Facility Operating License Nos. DPR-26 and DPR-64 for IP1, IP2, and IP3, respectively, as well as the general license for the IPEC Independent Spent Fuel Storage Installation. Specifically, the applicants requested that the NRC consent to the transfer of ENOI's operating authority under these licenses to HDI and the ownership of the IP1 and IP2 licenses to the Holtec subsidiary Holtec Indian Point 2, LLC and the ownership of the IP3 license to the Holtec subsidiary Holtec Indian Point 3, LLC. The requested exemption would only apply following an NRC approval of this license transfer application and the consummation of the transfer transaction.

In accordance with 10 CFR 51.21, the NRC prepared the following EA that analyzes the environmental impacts of the proposed action. Based on the results of this EA, which are provided in Section II, and in accordance with 10 CFR 51.31(a), the NRC has determined not to prepare an environmental impact statement for the proposed licensing action and is issuing a FONSI.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would partially exempt HDI from the requirements set forth in 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv). Specifically, the proposed action would allow HDI to use funds from the NDTs for spent fuel management and site restoration activities not associated with radiological decommissioning activities and would exempt HDI from the requirement for prior notification to the NRC for these activities.

The proposed action is in accordance with HDI's application dated February 12, 2020.

Need for the Proposed Action

By letter dated February 8, 2017 (ADAMS Accession No. ML17044A004), ENOI submitted to the NRC a certification in accordance with 10 CFR 50.82(a)(1)(i), stating its determination to permanently cease power operations at IP2 and IP3 by April 30, 2020, and April 30, 2021, respectively, subject to operating extensions through, but not beyond, 2024 and 2025, respectively. ENOI permanently ceased power operations at IP2 on April 30, 2020, and permanently defueled IP2 on May 12, 2020 (ADAMS Accession No. ML20133J902).

As required by 10 CFR 50.82(a)(8)(i)(A), decommissioning trust funds may be used by the licensee if the withdrawals are for legitimate decommissioning activity expenses, consistent with the definition of decommissioning in 10 CFR 50.2. This definition addresses radiological decommissioning and does not include activities associated with spent fuel management or site restoration. Similarly, the requirements of 10 CFR 50.75(h)(1)(iv) restrict the use of decommissioning trust fund disbursements (other than for ordinary and incidental expenses) to decommissioning expenses until final decommissioning has been completed. Therefore, exemption from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) is needed to allow HDI to use funds from the NDTs for spent fuel management and site restoration activities.

HDI stated that Tables 1, 2, and 3 of the exemption request demonstrate that the NDTs contain the amount needed to cover the estimated costs of IP1, IP2, and IP3 radiological decommissioning, as well as spent fuel management and site restoration activities. The adequacy of funds in the NDTs to cover the costs of activities associated with spent fuel management, site restoration, and radiological decommissioning through license termination is supported by the HDI IPEC DECON PSDAR. HDI stated that it needs access to the funds in the NDTs in excess of those needed for radiological decommissioning to support spent fuel management and site restoration activities not associated with radiological decommissioning.

The requirements of 10 CFR 50.75(h)(1)(iv) further provide that, except for withdrawals being made under 10 CFR 50.82(a)(8) or for payments of ordinary administrative costs and other incidental expenses of the NDTs in connection with the operation of the NDTs, no disbursement may be made from the NDTs without written notice to the NRC at least 30 working days in advance. Therefore, an exemption from 10 CFR 50.75(h)(1)(iv) is also needed to allow HDI to use funds from the NDTs for spent fuel management and site restoration activities without prior NRC notification.

In summary, by letter dated February 12, 2020, HDI requested an exemption to allow NDT withdrawals, without prior written notification to the NRC, for spent fuel management and site restoration activities.

Environmental Impacts of the Proposed Action

The proposed action involves an exemption from regulatory requirements that are of a financial or administrative nature and that do not have an impact on the environment. The NRC has completed its evaluation of the proposed action and concludes that there is reasonable assurance that adequate funds are available in the NDTs to complete all activities associated with radiological decommissioning as well as spent fuel management and site restoration. There is no decrease in safety associated with the use of the NDTs to also fund activities associated with spent fuel management and site restoration. Section 50.82(a)(8)(v) of 10 CFR requires a licensee to submit a

financial assurance status report annually between the time of submitting its site-specific decommissioning cost estimate and submitting its final radiation survey and demonstrating that residual radioactivity has been reduced to a level that permits termination of its license. Section 50.82(a)(8)(vi) of 10 CFR requires that if the sum of the balance of any remaining decommissioning funds, plus expected rate of return, plus any other financial surety mechanism does not cover the estimated cost to complete radiological decommissioning, additional financial assurance must be provided to cover the cost of completion. These annual reports provide a means for the NRC to continually monitor the adequacy of available funding. Since the exemption would allow HDI to use funds from the NDTs that are in excess of those required for radiological decommissioning, the adequacy of the funds dedicated for radiological decommissioning are not affected by the proposed exemption. Therefore, there is reasonable assurance that there will be no environmental impact due to lack of adequate funding for radiological decommissioning.

The proposed action will not significantly increase the probability or consequences of radiological accidents. The NRC staff has concluded that the proposed action has no direct radiological impacts. There would be no change to the types or amounts of radiological effluents that may be released; therefore, there would be no change in occupational or public radiation exposure from the proposed action. There are no materials or chemicals introduced into the plant that could affect the characteristics or types of effluents released offsite. In addition, the method of operation of waste processing systems would not be affected by the exemption. The proposed action will not result in changes to the design basis requirements of structures, systems, and components (SSCs) that function to limit or monitor the release of effluents. All the SSCs associated with limiting the release of effluents will continue to be able to perform their functions. Moreover, no changes would be made to plant buildings or the site property from the proposed action. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action would have no direct impacts on land use or water resources, including terrestrial and aquatic biota, as it involves no new construction or modification of plant operational systems. There would be no changes to the quality or quantity of non-radiological effluents and no changes to the plant's National Pollutant Discharge Elimination System permits would be needed. In addition, there would be no noticeable effect on socioeconomic conditions in the region, no environment justice impacts, no air quality impacts, and no impacts to historic and cultural resources from the proposed action. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the proposed action would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

There are no unresolved conflicts concerning alternative uses of available resources under the proposed action.

Agencies or Persons Consulted

No additional agencies or persons were consulted regarding the environmental impact of the proposed action. On October 28, 2020, the NRC notified the State of New York representative of the EA and FONSI.

III. Finding of No Significant Impact

The requested exemption from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) would allow HDI to use funds from the NDTs for spent fuel management and site restoration activities, without prior written notification to the NRC. The proposed action would not significantly affect plant safety, would not have a

significant adverse effect on the probability of an accident occurring, and would not have any significant radiological or non-radiological impacts. The reason the human environment would not be significantly affected is that the proposed action involves an exemption from requirements that are of a financial or administrative nature and that do not have an impact on the human environment. Consistent with 10 CFR 51.21, the NRC conducted the EA for the proposed action, and this FONSI incorporates by reference the EA included in Section II of this document. Therefore, the NRC concludes that the proposed action will not have significant effects on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Other than HDI’s letter dated February 12, 2020, there are no other environmental documents associated with this review. This document is available for public inspection as indicated in Section I.

Previous considerations regarding the environmental impacts of operating IPEC are described in NUREG-1437, Supplement 38, Volume 1, “Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 – Final Report, Main Report and Comment Responses,” dated December 2010 (ADAMS Accession No. ML103350405), and Volume 5, “Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Supplement 38 Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 – Final,” dated April 2018 (ADAMS Accession No. ML18107A759).

IV. Availability of Documents

Date	Title	ADAMS Accession No.
5/12/2020	Letter from ENOI to NRC, “Certifications of Permanent Cessation of Power Operations and Permanent Removal of Fuel from the Reactor Vessel, Indian Point Nuclear Generating Unit No. 2”	ML20133J902
2/12/2020	Letter from HDI to NRC, “Request for Exemptions from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv)”	ML20043C539

12/19/2019	Letter from HDI to NRC, "Post Shutdown Decommissioning Activities Report including Site-Specific Decommissioning Cost Estimate for Indian Point Nuclear Generating Units 1, 2, and 3"	ML19354A698
11/21/2019	Letter from ENOI to NRC, "Application for Order Consenting to Transfers of Control of Licenses and Approving Conforming License Amendments"	ML19326B953
4/2018	NUREG-1437, Supplement 38, Volume 5, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 38, Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 – Final"	ML18107A759
2/8/2017	Letter from ENOI to NRC, "Notification of Permanent Cessation of Power Operations, Indian Point Nuclear Generating Unit Nos. 2 and 3"	ML17044A004
12/2010	NUREG-1437, Supplement 38, Volume 1, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 38, Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 – Final Report, Main Report and Comment Responses"	ML103350405

Dated: November 5, 2020.

For the Nuclear Regulatory Commission.

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[FR Doc. 2020-24935 Filed: 11/9/2020 8:45 am; Publication Date: 11/10/2020]