

March 14, 2022

Mr. Thomas Congdon,
Chair, Decommissioning Oversight Board and
Deputy Chair, Department of Public Service
New York State Department of Public Service
Empire State Plaza
Agency Building 3
Albany, New York 12223-1350

Re: New York State Decommissioning Oversight Board

Dear Chairman Congdon,

We write in follow up on a number of serious issues that require your urgent attention and advocacy regarding the Indian Point Decommissioning Oversight Board (DOB). Taken together with the sharply heightened global threat, they underscore the urgency for the DOB and our public officials to be doing everything possible to mitigate the catastrophic risks and vulnerabilities glaringly present in our area with three massive, high pressure Algonquin gas transmission pipelines at the Indian Point nuclear site, especially during decommissioning operations.

It cannot be stressed strongly enough that Indian Point is the only nuclear facility in the United States that is dangerously co-located with three gas transmission pipelines crisscrossing the property and - worse yet - with decommissioning operations underway involving hazardous infrastructure, vast amounts of radioactive waste, and heavy deconstruction and excavation activities and equipment. During decommissioning activities, scores to hundreds of workers principally employed by Holtec International subsidiaries, who have no institutional knowledge of the site and no awareness of the pipeline hazards, are working at the site. Critically, Indian Point lacks the necessary markings of the pipelines' Rights-of-Way (ROW) and the necessary safety and emergency protocols. Holtec, of course, is not a gas pipeline company and has no experience in handling a pipeline incident while Enbridge, the owner and operator of the Algonquin pipelines, has been effectively AWOL.

Public awareness and preparedness is critical to the protection of any population during an emergency – much less one with the kinetics, chaos, and toxicity of a pipeline rupture at a radioactively contaminated location. Paper plans and tabletop exercises are next to meaningless where residents, businesses, school staff and other members of the community do not know what to do. Given the constricted and deteriorated nature of roadways in the region, both egress and access could become quickly blocked for both workers and first responders. It is not reasonable to assume that an event at the site could be fully mitigated. Thus, preparation and prevention of an emergency must be given the highest priority.

It is imperative that the DOB vigorously take on a far more serious, proactive role at this dangerous site and direct special attention to the following issues.

Expert Presentation to the DOB

Rick Kuprewicz, President of Accufacts and a leading national pipeline safety expert has been invited to the upcoming meeting of the Decommissioning Oversight Board on March 17, 2022. Please ensure and confirm that Mr. Kuprewicz will be provided with a full opportunity to make a professional presentation to the DOB and the public that reflects his decades' long expertise in evidence-based safety measures and protocols based on pipeline thermodynamics. Mr. Kuprewicz has provided a list of questions and issues that also must be addressed regarding essential components of a risk assessment as well as basic emergency protocols. They are included at the close of this letter.

Severely Heightened Cyber Security Threats

Cyber security presents a clear and present danger to U.S. infrastructure and the peril has been unquestionably heightened by Russia's aggression against the Ukraine and the very real possibility that retaliation against the U.S. for sanctions will be launched in the form of cyber attacks. Russian President Vladimir Putin's willingness to inflict destruction upon civilians, risk a nuclear power site disaster in the Ukraine, the threats he has issued, and his possibly unstable mental state all militate against the assumption that a cyber attack against major U.S. infrastructure will not happen. The SolarWinds cyber attack, it should be pointed out, continued for months before it was recognized and officials acknowledged enormous penetration of government and industrial computer networks. Malware inserted through that or some other intrusion may well be present on any number of U.S. systems today.

Gas pipelines are recognized targets and Indian Point is a prominent site. Multiple alerts and reports put out by the U.S. Computer Emergency Readiness Team Alert Team (US-CERT), the Federal Bureau of Investigation (FBI), and the Cybersecurity and Infrastructure Security Agency (CISA) have identified efforts to access energy infrastructure supervisory control and data acquisition (SCADA) systems. An attack launched against the Enbridge SCADA system in Houston, Texas – especially one which opportunistically exploits weather or other problem conditions on the Texas grid – could have catastrophic impacts at Indian Point. The ransomware attack on the Colonial Pipeline presented a vivid example of the cascade of consequences that can follow from even a relatively unsophisticated intrusion.

Governor Hochul formed a Joint Security Operations Center (JSOC) as a means of overseeing cyber security throughout New York State. As a prime target of terrorism, Indian Point must be included in this initiative.

Shutting the Gas Pipelines at Indian Point, ROWs Markings and Prohibitions

Shutting the Algonquin gas pipelines during decommissioning activities was raised by four New York State agencies in their 2018 letter to the Federal Energy Regulatory Commission (FERC) and the Pipeline Hazardous Materials Safety Administration (PHMSA) and was also mentioned by Mr. Kuprewicz in his 2018 letter in response to the NYS agencies' letter. Both letters cited the potential for heavy excavation and deconstruction activities to jeopardize pipeline integrity. Shutting the gas pipelines at Indian Point, proper locating and marking of the pipelines' ROW and compliance with safety and emergency protocols and regulations are all imperative.

Furthermore, operations are essentially prohibited in the pipeline ROW and certain activities near the ROW are also prohibited. Indeed, Enbridge states on their website, "Though pipelines are

identified by above-ground markers, the markers should never be used as a reference for the exact location of the pipeline. Also, as the depth of pipelines and other underground utilities can change over the years due to erosion, previous digging projects or uneven surfaces, there are varying depths to underground systems.”

Does Holtec have written permission from Enbridge, as required, for each of its activities? Where is that documentation?

Enbridge On Site Supervision and, Participation on and Accountability to DOB and NY

There appears to be no on site supervision by Enbridge over activities underway or soon to commence at Indian Point, even though Enbridge’s website states that its representatives must be onsite to supervise any excavation operations or ground disturbance near the ROW.

Given the sensitivity of Indian Point, the elevated security threat, and Enbridge’s responsibility for supervision on site, it is imperative to ensure a dedicated knowledgeable Enbridge staff presence at Indian Point during decommissioning operations. “Operators must control construction on pipeline right-of-ways and ensure that they are carefully monitored to keep pipelines safe.” (PHMSA Operations and Maintenance Enforcement Guidance Part 192 Subparts L & M)

In addition to the manifest need for authorities to demand robust on site supervision on the part of Enbridge, it is also imperative for knowledgeable Enbridge representatives to participate in meetings before the DOB in order to answer questions raised by board members and the public.

Community First Responder Training, Public Awareness and Emergency Planning

To date, proper first responder emergency training, public awareness and emergency planning have not been implemented. Indeed, the current staff working at Indian Point appears to have neither understanding of the specific emergency procedures to follow in the event of a gas leak, fire or other pipeline event on the premises, nor the knowledge of whom to contact in the case of an emergency. It should be emphasized that it will be the workers at the site at the time of such an event that will need to respond appropriately and swiftly.

Residents have conflicting information about what to do in the event of a pipeline rupture or a radioactive release event e.g. a cooling pool fire. Public education must be made fully accessible, addressing any potential language and technology barriers.

Impact of Dissolution of Comprehensive Decommissioning International LLC (CDI)

Holtec sought licenses to decommission Indian Point and several other nuclear power plant and spent fuel storage sites all at the same time, and with unprecedented speed, without ever having decommissioned a single, solitary nuclear reactor site. As purported evidence of its ability to manage such a complicated, costly and hazardous endeavor, Holtec touted its Comprehensive Decommissioning International, LLC (CDI) joint venture with the Canadian engineering giant SNC-Lavalin.

CDI, Holtec represented, would serve as decommissioning general contractor at Indian Point and the other nuclear sites. This provided at least a small measure of assurance that a corporation with some level of heft, decommissioning expertise, and financial substance and accountability had eyes on the enterprise. As has been well documented – including by the New York Attorney

General in its intervenor filings – Holtec is a completely non-transparent, non-financially accountable, privately held concern whose assets are protected from liability by a host of limited liability shell entities.

It now seems that Holtec and SNC-Lavalin have parted ways. In late January 2022, Holtec notified the NRC of a change to Holtec Decommissioning International's (HDI) organizational structure at Indian Point and other nuclear sites. It specifically stated that HDI was no longer contracting with CDI to serve as decommissioning general contractor, and that HDI would be absorbing CDI and directly employing site personnel, as well as engaging its own vendors.

Holtec presented the dissolution of CDI as a trifling administrative change. We find this characterization dubious and believe the public should be apprised as to the circumstances that led to this significant organizational restructuring, with detailed explanation of the changes on the ground. How has this impacted the work already underway at Indian Point? What assurances and supportive documentation have been provided regarding any work changes, interruptions, safety and qualified personnel?

Community Representation on the Decommissioning Oversight Board

There is no community representation on the DOB. It is imperative that a resident be appointed.

Fenceline communities are the most important stakeholders. They are directly impacted 24/7 and are the people who will be at utmost risk from the environmental, public health and safety consequences of the activities on the site. Yet, these stakeholders continue to be deprived of the right to communicate face-to-face on the DOB public platform through their own qualified representative. The voices of this Environmental Justice community are literally suppressed and marginalized, while discussions during these meetings are conducted by other participants. Courtney Williams, PhD, who is a resident and is uniquely qualified, should be immediately recommended and appointed to the DOB. She is a highly regarded scientist with extensive knowledge of the Indian Point facility and the pipelines and is a parent with children in the school located in immediate proximity to Indian Point and the Algonquin transmission pipelines.

The DOB has been slow to get its footings. But, excuses no longer hold. We are now at a critical juncture at Indian Point and facing unprecedented national challenges and risks. A secretive company with a continuously morphing array of limited liability and entities is now in charge, with the NRC handing out exemptions like hotcakes at each site Holtec is working on.

The DOB must take swift and decisive action. It must dramatically increase its level of engagement, press at every level of New York State and Federal government to compel vastly improved oversight, accountability, and compliance with critical safety and emergency training, protocols and regulations and demand Enbridge become fully involved – immediately – at the Indian Point site.

The DOB must also significantly improve its level of communications and transparency. Quite frankly, any lay member of the public seeking to acquaint themselves with what is happening at the site and what the DOB is doing via the Department of Public Service / Public Service Commission website is in for a long frustrating process. Expecting members of the public to sign onto receipt of notices in this day and age of email and text ambush is unacceptable. A user-

friendly page, which is accessible to non-English speakers, seniors and persons with disabilities, is badly needed. Announcements must also include all relevant information, not just refer to a previous announcement. And, information needs to be real information, timely delivered – not marketing about how marvelously those involved at the project are doing. Clear and coherent announcements, alerts, emergency notifications and special instructions should be provided to residents and public officials through timely electronic and non-electronic means accessible to all populations.

We implore the DOB to forcefully advocate for these urgent measures. There is no margin for error or delay.

Sincerely,

Tina Bongar, Climate Reality, Leader, Resist Spectra, United for Clean Energy,

Suzannah Glidden, Stop the Algonquin Pipeline Expansion, United for Clean Energy

Marie Inserra, Peekskill Conservation Advisory Council, United for Clean Energy

Michel Lee, Council on Intelligent Energy and Conservation Policy

Amy Rosmarin, Stop the Algonquin Pipeline Expansion

John Sullivan, Indian Point Safe Energy Coalition

Susan Van Dolsen, Stop the Algonquin Pipeline Expansion, Westchester for Change

Courtney Williams, PhD, Safe Energy Rights Group

Ellen Weininger, Grassroots Environmental Education, Stop the Algonquin Pipeline Expansion, United for Clean Energy

Provided by Rick Kuprewicz, President of Accufacts

Pipeline Questions for Nuke Plant Decommissioning

The following questions should be clearly stated and addressed in any competent risk assessment (“RA”) for the nuke facility decommissioning effort and the nearby pipelines.

I Pipeline Locations and depth:

1. Define the pipe type (e.g., ERW, DSAW, etc.), diameter, pipe grade, pipe thickness, MAOP, and year of installation in the ROWs that might be affected by the nuke decommissioning activities.
2. Clear indication on aerial map for the RA the two pipeline ROWs (North and South routes).
3. Within each of the ROWs identify,
 - a. The approximately lateral location of the pipelines in the ROWs.
 - b. The depth to upper surface of each pipeline running across the indicated ROWs,

- c. Clearly indicate how the pipeline(s) location (surface lateral and depth) was determined within the ROWs at threat to decommissioning activity (i.e. electronic measurement, potholing, depth of cover probes, and/or mapping ILI inspection pig runs, and the year of last location determination.
 - d. Identify the expected soil type over each pipeline.
4. State and calculate the maximum surface loading threat in pounds crossing the pipelines.
 5. Provide the surface loading calculations for each of the above pipelines incorporating an additional safety margin (such as 50%) and the appropriate surface plate steel thickness and dimensions that will satisfactorily disperse the maximum surface load on the buried pipelines.
 6. Clearly identify the last smart pig ILI runs (state the year run), and whether any anomalies were identified (such as general corrosion) on the pipelines within the threatened ROWs that might weaken the pipelines for surface loading threats.

II Spent fuel rod storage

1. The RA should clearly demonstrate how far is the spent rod storage facility from the pipelines.
2. The risk assessment should confirm that minimum water depth in the spent fuel rods storage as I believe this is a critical factor for this facility should a gas pipeline rupture.

Cc:

Kathy Hochul, Governor of NYS
Rory Christian, Chair & CEO, NYS Department of Public Service
John Sipos, Counsel to the NYS DOB
Basil Seggos, Commissioner, NYS Department of Environmental Conservation
Tom Kaczmarek, Executive Director, NYS DOB
John O’Leary, NYS Deputy Secretary for Energy and Environment
John Melville, Commissioner, NYS Division of Homeland Security
Karen Gentile, PHMSA
Senator Charles Schumer
Senator Kirstin Gillibrand
Congressman Mondaire Jones
NYS Senator Peter Harckham
NYS Assemblywoman Sandy Galef
George Latimer, County Executive of Westchester
Catherine Borgia, Chair, Westchester County Board of Legislators
Colin Smith, Westchester County Legislator
Lisa Hochman, Counsel to Westchester County Board of Legislators
Peter Loughran, Four County Safety Coordinator for Indian Point
Richard Webster, Riverkeeper, DOB
David Lochbaum, DOB