

**Comments on Proposed License Transfer Application for Indian Point from Entergy to Holtec for consideration by the Joint Parties who negotiated the Joint Proposal (JP) and by the soon to be convened Decommissioning Oversight Board (DOB)**

***Tito Davila for Senator Harckham***

- **What happens when the money runs out? Are New Yorker's expected to pick up the multimillion dollar tab?** The AG's office addressed this in its court filings, which also called into question Holtec's capitalization over and above the trust fund.
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***George Latimer***

The attorney general, the Department of Environmental Conservation, and other stakeholders have asserted a number of critical concerns relating to, one, the corporate structure and lack in transparency of the Holtec entities; two, the financial ability of the Holtec entities that will carry out the decommissioning to complete this process; three, the Holtec entities management of spent nuclear fuel, and the use of the Decommissioning Trust Funds for spent nuclear fuel management; and four, the failure of the decommissioning plan to address the likelihood of radiological contamination of groundwater and other non-radiological contaminants likely to exist at Indian Point.

In granting the application for transfer for Entergy's Indian Point license to Holtec and allowing Holtec to use Decommissioning Trust Funds of spent nuclear fuel management, the Nuclear Regulatory Commission skirted all of these issues and refused to even hold a hearing to address it. The Public Service Commission is now the only agency with the jurisdiction and the ability to assure that the transfer of Indian Point to the Holtec entities results in a successful decommissioning process that restores the site to safe condition for future productive use. Accordingly, in exercising its jurisdiction, the Public Service Commission should not approve the transfer unless the following protections at a minimum are mandated.

Number one, the 2.1-billion-dollar Decommissioning Trust Fund will be controlled by three special purpose entities created by Holtec or Holtec LLC's. These entities are limited liability companies that have no assets other than these trust funds that were funded by ratepayers. The decommissioning process will span in excess of 40 years. The attorney general municipalities have identified Holtec to account for unforeseen conditions that could cause a significant shortfall in the Decommissioning Trust Funds.

Number two, the Nuclear Regulatory Commission has permitted Holtec LLC's to use the Decommissioning Trust Funds to spent nuclear fuel despite the fact that the Holtec LLC's will recover millions, if not hundreds of millions, of dollars from the Department of Energy due to the latter's inability to take ownership of spent nuclear fuel as required by law. The PSC should require that the Holtec LLC's place recoveries from the Department of Energy into the Decommissioning Trust Funds and provide a portion of them to the municipalities affected by the decommissioning. The Public Service Commission should also require Holtec to guarantee the obligations of the Holtec LLC's or post a standby letter of credit to support those obligations with the Holtec LLC's as the beneficiaries.

Number three, Holtec should be required to commit sufficient fund for remediation of any other contamination at the site as set forth in the affidavits of the experts submitted by the DEC and the state attorney general. In its cost estimates, Holtec has not adequately planned for full site remediation. All contamination at Indian Point must be remediated to that the site could be safe for future productive use.

Number four, Holtec is a privately-held company that has not been transparent in disclosing its financial

condition to regulators. As the parent of the Holtec LLC's that are undertaking a critical task affecting public health and safety, the PSC should mandate that Holtec disclose its financial statements to the PSC and the public on at least a quarterly basis. The public interest dictates that taxpayers know the financial condition of the entity ultimately controlling the decommissioning of Indian Point and site restoration.

Number five, the PSC should also obtain a commitment from the Holtec, LLC's to support and participate in ongoing emergency planning and preparation activities. Westchester County urges the Public Service Commission to exercise its statutory authority to protect the public interest by assuring that the decommissioning process is adequately funded and carried out safely and successfully with restoration of the Indian Point site to environmentally sound condition for productive use. Without these assurances, the proposed transfer is not in the public interest.

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### ***Boykin & Westchester County Legislators***

Some of our specific questions include:

- How can a company with unknown financial resources and a questionable track record provide assurance that it can safely complete the decommissioning process and site restoration? To avoid undue burden on County and local first responders, will Holtec/Entergy maintain necessary plans, a sufficient number of trained staff, and security mechanisms to prevent or mitigate workplace accidents and consequences of extreme weather, earthquakes, terrorist attacks and risks associated with proximity to high pressured gas pipelines?
  - Will there be adequate resources to fund independent monitoring of soil, air, and groundwater to allow accurate measurement of released contaminants, including an accurate baseline from which to measure?
  - How can we vet the financial viability of Holtec, which is comprised of organizations insulated from liability, and lacking transparency with respect to its funding and capital structure?
  - What reliable contingencies will be in place if Holtec is unable to meet its financial obligations?
  - How do we know that the amount set aside in the Decommissioning Trust Fund will be adequate to complete decommissioning and site restoration, especially if Holtec is allowed to drain money from the Trust Fund to pay for storage of nuclear waste?
  - What will happen to any money remaining in the Decommissioning Trust Fund once the decommissioning process is complete?
  - Holtec is relying on assumptions such as Congress changing the law to allow interim offsite storage and a 2% annual growth of the money in the Decommissioning Trust Fund – what will happen if these assumptions are unfounded?
  - Will there be sufficient resources to fund long-term measures to monitor the environmental and safety concerns on the site? For example, how will potential degradation of the dry cask storage units be monitored in future decades?
  - What resources will be available to promote economic development of those communities most impacted by the Indian Plant closure?
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**Colin Smith: Westchester County Legislator**

Honorable Members of the NYS Public Safety Commission,

On Tuesday, I appeared at a New York State Public Service Commission hearing on the decommissioning of Indian Point to express concerns I and the residents of Buchanan and our entire area have about the transfer of the plant from Entergy to a decommissioning company, Holtec International.

The decommissioning of Indian Point will be a long and arduous process that cannot be rushed, and oversight cannot be waived. The PSC must retain jurisdiction over the process, review the proposed transfer and take a hard look at whether or not the contemplated transactions and transfers are in the public interest.

Decommissioning and site restoration plans must be carefully considered, evaluated and regulated with due diligence out of concern for costs, safety and environmental protection.

Serious and substantial concerns remain about the transfer to Holtec and the decommissioning plan. These include concerns about the financial wherewithal and technical capacity of Holtec and its subsidiaries to properly complete the work and the sufficiency of plans and resources to ensure the safety of Westchester residents during the decommissioning and beyond.

The Public Service Commission must determine whether the Decommissioning Trust Fund is adequately capitalized to fully cover the cost of decommissioning Indian Point, and whether there is a viable contingency plan in case there is a shortfall.

There also must be reliable assurances that there will be adequate money for non-decommissioning expenses like storage of nuclear waste, site restoration, and unanticipated risks such as the discovery of additional radiological and non-radiological contaminants.

Last March, I and all my colleagues on the Westchester County Board of Legislators outlined our concerns to the PSC in a letter. At that time, we were hopeful that the Nuclear Regulatory Commission would also grant a public hearing on the matter. But the NRC did not. That leaves the PSC as the last regulatory body that can influence events and protect residents and taxpayers as Indian Point is decommissioned.

That's why the PSC must reject Holtec's attempt to have it disclaim jurisdiction. Government oversight is essential in this process. The nuclear industry is the most highly regulated in the nation and the decommissioning of one of our oldest plants is too consequential to be shielded from public oversight. This is the only way to truly ensure the public good.

Respectfully submitted,

Colin Smith, Westchester County Legislator, District 1

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**Linda Puglisi**

- **Does Holtec have the technical capabilities to properly decommission the plant?** I don't have the answer to that question.
- **What are Holtec's short-term/long-term plans for the nuclear waste?** I realize federal government has a lot to say about that. I get that.
- **How will Holtec safely transport nuclear waste if it was allowed from Indian Point? And then how are they going to continue to ensure the safety into the dry cask storage units?** I understand they've been there, but we want to know going forward how they're going to do this.

- **Does Holtec have—this has been mentioned before in the last several hours—does Holtec have the financial means to safely decommission Indian Point to its final completion? What if the trust fund is not sufficient? What if it's not enough? Who is going to be holding the bag so to speak?** Not the Town of Cortlandt. Let me tell you no way.
  - **Has a full environmental review been completed?** There's 33 wells on the site as I mentioned. The Hudson River, a critical environmental area, abuts the property.
  - **What is the contact information for the other companies—sub companies that Holtec will use and who would be on the site during the decommissioning process?** We need to meet them. We need to know the plan.
  - **How many current employees from Entergy will remain officially at this site for a while, not a month, not six months, not a year, but so the families know that they will have a long-term, longtime job with Holtec at the site if they are selected.** This is important to us at the local level of village, town, School District of Hendrick Hudson.
  - **Would Holtec plan to enter into what's called a payment in lieu of taxes “a titled agreement” [sic; I think that this should be PILOT] with the taxing jurisdiction?** This is expressed, authorized pursuant to a legislative bill signed by the governor December 31, 2020. Senator Harckham and Assemblywoman Galef helped us submit this bill to the governor so we were delighted about that. But is Holtec going to abide by that? We need the plan. We want to know definitively. This is important too.
  - **Has Holtec communicated with the local emergency services, fire departments, ambulance, police, etc., and with the Northern Westchester Joint Waterworks for future water usage?** I'm on the executive board of the Joint Waterworks, and last Friday I asked the question of the director. No, Holtec has not returned their calls. That's outrageous. They provide the water sources, plus all the other environmental issues that I just stated.
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### *Councilman James Creighton*

- **What are Holtec's short- and long-term plans for the nuclear waste?** We've heard about Holtec's manufacturing facility in Camden, New Jersey where they're planning to build small modular reactors, some with designs that run on reprocessed spent fuel. We also know they're looking to license a consolidated interim storage facility for spent nuclear fuel in New Mexico.
- **So is Holtec trying to leverage our ratepayer and government money to fund their various linked businesses?** That obviously would be an impermissible conflict of interest with a high potential for self-dealing and heightened risk that Holtec will make decisions to prioritize their profits over our public health and safety.
- **Finally, does Holtec have the financial means to safely decommission IPEC to its final completion?** Holtec is a closely held private company with no transparency or financial assurance that it has the financial depth needed to take on Indian Point's decommissioning. It's offered no proof of substantial capitalization. It's a bit secretive about its finances, and Holtec's business model relies on leveraging other people's money, our ratepayer and taxpayer money for their own profit without bringing any of their own capital to perform the decommissioning work. It sought and obtained from the NRC an exemption from the prohibition on using the decommissioning trust fund for purposes other than decommissioning, which means they can reimburse themselves for spent fuel handling out of the decommissioning trust fund. At Indian Point, this could be really serious because it could deplete funding for the actual decommissioning activities, such as dismantling the plant and remediating the site to the proper levels.
- **Also, has a full environmental review been completed?** In the post-shutdown activities report, Holtec indicated it would do nothing to remediate known contamination of radioactive isotopes that are

leaking from the plant into groundwater and into the Hudson River, including strontium-90. It said it would remove above-ground structures only to a nominal depth of three feet, but contamination at the site almost certainly goes much deeper or at least we need to know what the facts are. So **what environmental assessments have been done?**

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***Liam Robb O'Hagan***

Dear Public Service Commissioners,

Did you watch the Chernobyl miniseries? I did, and I was reminded that the consequences of mismanaging a nuclear project are grave. I trust Entergy and Holtec to work in the interests of their bottom lines, not the health and safety of this or future generations.

Therefore, I urge you as the representatives of "We the People of New York" to represent OUR needs during the Indian Point Decommissioning. As demonstrated by the Yucca Mountain proposal the People of New Mexico and the Navajo Nation are unlikely to accept our waste, therefore it is a practical imperative, and the morally just action, that we should make a plan for the long term storage of it.

I am asking the Public Service Commission to:

- \* Establish a Decommissioning Oversight Board (DOB), with independent members.
- \* Require the completion of the Federally-mandated Risk Assessment of having spent Fuel Rods stored in close proximity to the AIM natural gas pipeline. ğ
- \* Require adoption of an adequate Emergency Response plan, with the minimum requirement that the gas pipeline be SHUT OFF during the highest risk phases of the Decommissioning work.
- \* Require that the decommissioning work includes clean-up of existing radioactive pollution in the groundwater and soil beneath the plant and not simply monitoring of radioactivity levels that is currently proposed.
- \* Require a Comprehensive Community Radioactivity monitoring. Not just monitoring of the above known contamination.
- \* Require that the Decommissioning plan takes into account the safety of the Buchanan-Verplanck Elementary School which is 3/4 of a mile away from Indian Point, including:
  - \* upgrades to the schools ventilation system,
  - \* agreement to pay for monitoring and clean up any contamination and
  - \* limiting high-risk activity to summer months when school is not in session.
- \* The Public Service Commission (PSC) and the Decommissioning Oversight Board (DOB) should address Holtec's plan to store fuel rods which will remain radioactive for thousands of years dry casks with a lifespan of 60-100 years. Because the Holtec business model is being challenged on so many levels: Federally, by the State of New Mexico and Navajo Nation, the PSC should plan for alternative storage plans at the Indian Point site rather than expecting to ship the problem off to the New Mexico.
- \* Need for HOSS (Hardened On Site Storage) or building containment
- \* Need for overpack(s) onsite or hot cell; HOSS or building containment.

Do it for Us, our Children and our Grandchildren.

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**Veronica Jacobi, former councilwoman**

Please DENY the transfer of Indian Point license to Holtec. Their lack of experience and very poor safety and other records is of extreme concern. As a former Councilwoman and a parent I am strongly opposed. I grew up in New York and have relatives and friends near Indian Point.

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**Peter Arndtsen**

**Lenape/Bloemendael DMA dba Columbus Amsterdam Business Improvement District**

This transfer and management of contaminated property needs to be entrusted to a local community based nonprofit with oversight by government and existing local nonprofit educational and environmental organizations with funding provided and planned for at least the next 50 years. Organization to be charged and funded with containment and innovative long-term disposal or dissipation of contaminants.

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**Business Council of Westchester** (emphasis added)

Good Afternoon:

As you know The Business Council of Westchester (BCW) the county `s largest business membership organization focusing on economic and development participated in the PSC's public hearing and stated our support for the above mentioned settlement. We are pleased that all of the parties involved regarding this proceeding have reached a settlement.

**The key priority now must be to ensure that the community and public at large are engaged in this new chapter of the IPIC facility.** The BCW looks forward to working with Holtec to help them build solid lines of communication with the business community over these next few years.

**As we have stated in the past, the BCW urges the PSC to adopt the settlement. Thank you for your time and consideration on this matter.**

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**Joel Kupferman**

New York State's Bad Actor Policy is most apropos. Holtec is bad actor examplaire. Deny Holter the commission. Sincerely,

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**Mari Inoue**

- **For example, does Holtec have the technical capabilities to properly decommission the plant?**
- **What kind of technology does Holtec have to decontaminate the Indian Point site that is contaminated with radioactivity?**
- **What are Holtec's finances?** Holtec's structures are privately-held corporations and their finances are not transparent, and Holtec's companies that will have anything to do with a decommissioning project are limited liability corporations, and limited liability corporation is a form of corporate structure to avoid potential liability and financial responsibility.
- **Does Holtec have the financial means to safely decommission Indian Point to its completion?**

- And **what are Holtec's short-term and long-term plans for nuclear waste, such as highly radioactive spent nuclear fuel?**
  - **How would Holtec safely transfer nuclear waste away from Indian Point without affecting communities of color, such as Latinx communities in New Mexico?**
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### *Rose Gardner*

- **Be very picky because you know what? You're going to be stuck with that waste for a while even if you decommission, and I hope you get it decommissioned.**
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### *Pat Cardona*

- This is an issue of environmental justice on every level, not only from the health level but also from the economic level. Later on, **people start talking about, well, why can't people pull themselves up by their bootstraps?** That's because the bootstraps are taken away from us by consistent handicap by different industries from economic and from equal access to the economic system. This site was not scientifically selected.
  - This is temporary. **So what happens afterwards? Where are they going to go? Are you going to take them back because we don't want them and we never wanted them?** The Holtec and Eddie Lee Alliance have obscured all of the issues involved in selecting this site. This is near a water aquifer in the desert. Water is underneath, not on top.
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### *Jess Mullen*

- So Holtec's track record speaks for itself. **Why is anyone choosing to cozy up with Holtec when there's way better options?** Holtec is like a career criminal with a highly checkered past. This leopard isn't changing its spots.
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### *Michel Lee*

- [L]et me—let me—let me put forth a—a line of argument that other people haven't put forth today because I know you must all be exhausted and that's the common concept of multiple points of failure. [cites many examples] **What preceded these?** Complacency, disbelief that the worst-case, low probability events wouldn't happen because they don't happen to us. **They happen to other people, right?** So what all the PR assurances and promises mount up to in this matter simply put is a scam. It may not be an intentional scam.
  - It's also a huge national security threat because what you're going to be doing is transporting essentially the largest inventory of nuclear waste that the planet has because this **isn't only Holtec in—in New York, right?** It's Holtec and all these other sites they're trying to go forward with.
  - **Do we really want our waste to be inflicted in some other areas being transported?**
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### *Fred Polvere*

- First, I stated that Holtec has a documented history of bribery, corruption, safety violations, and financial misdealings, that Holtec is the only contractor the Tennessee Valley Authority ever suspended and fined \$2 million. I asked if the NRC would take that into account in making its decision. The NRC Commissioner said to me everything will be taken into account. Obviously, they didn't take everything

into account. I then asked if Holtest—if Holtec mismanaged — mismanages this, will I as a New York State taxpayer have to pay for its mistakes? The NR—NRC Commissioner took over ten minutes of evading before he said yes.

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### ***Elaine Weir***

- And **also what do you do with this waste?** It seems like everybody has different ideas. Some are going to remove it over to New Mexico, but they don't want it. Some are saying it's going to be stored onsite, and others are going to say—did I hear it right—New Jersey to be reused as fuel.
  - So anyway, **the specifications for this whole project really need to be outlined, and I don't think we have enough to even—**you know, we should put in a proposal and have everything what? Oh, and those storage canisters didn't seem strong enough either.
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### ***Paul Blanch***

- [F]rom my discussions with other people, residents, interveners of other Holtec sites, the PSC must assure an ironclad agreement that Holtec International will bear all of the cost including the removal from the site. It's not clear to me. **I don't know whether it's clear to the others, but what is really included? Does it include removal from the site?** The bottom line is, due to the technical problems, the fact that we've got to include removal from the site and just to address these technical problems is going to add additional cost to the decommissioning—assuming you define decommissioning as including removal from the site—is likely to add hundreds of millions of dollars. And to support some of the other comments, this is not the NRC's money. It's not Entergy's money. The Public Service Commission must assure that they get the best solution to prompt decommissioning and that is to closely look at how Entergy is spending the residents money to select Holtec.
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### ***Peter Wolf***

- So, in essence, what you're doing is you are reducing the decommissioning fund down to say \$1.5 billion, and your cost three point — three billion. **So what happens at this point in time?** It is very likely that there are several possible outcomes.
  - One, of course, is that they will try to reduce the cost of cleanup. **Does that mean that they're going to be cutting corners?** That's the question that needs to be asked.
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### ***Catherine Skopic***

- And I would like to say to all the workers who are here represented on this comment hearing, no one wants to lose their job, but in particular decommissioning of a power plant out in California all of the workers were given then [*sic*—their, presumably] choice. **Do you want to stay on? Do you want to be retrained or do you want to retire?** Other companies can rehire you.
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### ***Jan Boudart***

- If you ask a representative of Holtec to explain their ties to foreign entities, they become quite exercised over this. **Now, how can they be associated with SNC Lavalin and not have foreign—foreign ties?** Also, I don't see how people can keep saying that this is a transfer to Holtec. It's a transfer to Comprehensive Decommissioning International, LLC, which is a joint venture of Holtec International and SNC Lavalin.
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**Sally Gellert** (In reference to Holtec's attitude toward residents and officials, particularly Singh's letter to the San Onofre CEP.)

- People can be criticized and people should be civil about it. **Is this somebody that local government should be forced to work with?**
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## ***NYSERDA***

The Petition asserts on p. 47 that Holtec’s LLCs are “financially capable of successfully decommissioning the IPEC facility” in part because of “the support of a parent company.”<sup>36</sup> But a close reading of the Petition actually establishes no commitment at all by the parent company to augment the trust funds – in fact, time after time the Petition merely reiterates why reliance on the trust funds itself, along with Holtec’s purportedly conservative cost estimate, is sufficient to garner Commission approval. Moreover, despite asking New York and New Yorkers to place their trust in Holtec International as the primary entity bearing any relevant experience here, Holtec International has not been willing to provide any information regarding its own financial standing to support any such reliance, and very little information is publicly available given that Holtec International is primarily owned and operated by one individual, Krishna Singh.<sup>37</sup> The information that is known about Dr. Singh (see point D below) may indicate an ongoing lack of internal controls at a company taking on an unprecedented amount of nuclear safety-related liability with nuclear safety implications.

The Petitioners claim in the Joint Petition that the existence of the DOE recoveries bolsters the Holtec LLCs’ financial qualifications,<sup>40</sup> but a close reading of the Joint Petition indicates that Holtec fails to commit to the return of such recoveries to the trust funds or otherwise ensure their availability to the Holtec LLCs if and when additional license termination, site restoration, or spent fuel management funds are needed. The Joint Petition says only that “[t]his source of funds can address the implications of a longer-term period of storage if the DOE doesn’t remove the spent fuel in a timely fashion.”<sup>41</sup> If the Holtec LLCs ultimately obtain an exemption to use trust fund monies to pay spent fuel management costs but are not required to reimburse the trusts for monies so used—that is, if HDI is allowed to treat the DOE recoveries purely as a revenue stream—the recoveries will become a profit windfall realized by HDI before it has satisfied the entirety of its decommissioning and site restoration obligations. Absent a requirement that the Holtec LLCs return any DOE recoveries to the trust funds, the Holtec LLCs fail to show they are financially qualified to complete license termination and site restoration activities and manage spent nuclear fuel at Indian Point.

Finally, NYSERDA questions whether the Nuclear Regulatory Commission even has the authority to sweep segregated site restoration dollars that came from the Con Ed rate base into the decommissioning trust fund to pay for onsite spent fuel management. These dollars appear to be under PSC jurisdiction. NYSERDA notes that NRC exemption requests are not subject to public or host state comment, but observes that the Attorney General’s Office did file a comment in response to the exemption request that the NRC Staff said they would consider.

Greg Gutke

Holtec is a major concern for not just the residents of Peekskill, Buchanan, and Verplank, but an environmental disaster here puts millions of people along water front communities including Manhattan downstream the Hudson River at risk. There’s been no plan put together by Holtec as to how they’re getting the radioactive water out of the cooling tanks. How are they transporting it? Where are they storing it? Holtec is taking on this contract with no real plan in place. The fact the public won’t be involved in the process is a major concern considering their track record. The public needs to be involved in this process. Please stop the transferring process and restart with a plan that includes the public, includes public hearing and has these questions answered.

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## ***Arthur Jerry Kremer, AREA***

- **And now Indian Point is shutting down, but the answer is do they want an empty site for the unforeseeable future?** Holtec, we think, based on the work they’ve done at Oyster Creek, at

Pilgrim Nuclear Power Station, and other areas, is more than capable of carrying out these responsibilities, if you will, to protect the community as well as getting the job done in a safe manner.

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***Robert DiFrancesco, AREA***

- We'll have to tell their children, their children's children, and their children's children's children why when they had the opportunity to fully restore the site that **they kicked the can 60 years down the road. How is that good for our economy, for jobs, for our communities, or for our environment?** So let's deal with reality, not fantasy, and the reality calls for us to support the license transfer without delay.