

PILGRIM WATCH

What Citizens Need to Know

Pilgrim Nuclear Power Station Decommissioning – June 1, 2019 – Forward



Pilgrim Watch is a public interest group focused on providing factual information on safety issues pertaining to the Pilgrim Nuclear Power Station, located in Plymouth Massachusetts. Pilgrim ceased operations May 31, 2019 and began the decommissioning process. It is important for the public and community leaders to be informed and to participate effectively to bring about a safer and cleaner outcome, and to not leave the Commonwealth to be the payer of last resort.

Mary and James Lampert

Pilgrim Watch

Duxbury, MA

mary.lampert@comcast.net

james.lampert@comcast.net

www.pilgrimwatch.org

July 2020

Copyright © Mary Lampert 2020

Table of Contents

Pilgrim Nuclear Power Station - Facts, pg. 1
Decommissioning Basics, pg. 3
Pilgrim’s Decommissioning – Holtec, pg. 20
Finances - Is There Enough Money, pg. 23
Spent Nuclear Fuel - pg. 40
Spent Fuel Pool Safety Issues, pg. 41
Pilgrim’s Dry Cask Storage, pg. 49
Dry Cask Safety Issues, pg. 53
ISFSI Security, pg. 58
Offsite Storage Options, pg. 66
Safer Options for Cask Design and Storage, pg. 73
Site Cleanup, pg. 76
Radiological Cleanup Standard, pg. 79
Early Site Assessment, pg. 84
Site Clean-up and Restoration, pg. 85
Environmental Monitoring, pg. 90
License Termination Plan and Final Status Survey Report, pg. 92
NRC Regulatory Exemptions, pg. 94
Protecting Our Communities – Priorities, pg. 104
State & Public Participation, pg. 109
Summary of Settlement Agreement, pg. 113
Links, pg. 130

PILGRIM NUCLEAR POWER STATION - FACTS

Owner: Holtec Pilgrim LLC (licensed owner) Holtec Decommissioning International LLC (licensed operator since August 2019; prior owners Entergy and originally Boston Edison.

Location: Plymouth, Mass., on shore of Cape Cod Bay

Type: Boiling Water Reactor, General Electric Mark I (same design as Fukushima)

Size: 688 MWE

Cooling Water Source: Cape Cod Bay via once-through-cooling; no cooling tower

Number of Employees during operations:¹ approximately 650 (2018)

Pilgrim was constructed between 1967 and 1972 (its reactor was ordered on August 7, 1965), at a cost of about \$200 million. When Massachusetts deregulated its electric market in 1999, Entergy Nuclear Generation Company bought Pilgrim from Boston Edison for \$14 million plus \$67 million for fuel.²

In June of 1972, the NRC granted Pilgrim a 40 year license to operate until June 8, 2012. Pilgrim began operations on December 9, 1972.

In January of 2006, Entergy filed an application to extend Pilgrim's operating license for 20 years, to June 8, 2032. The NRC granted the extended license on May 12, 2012, despite the fact that a number of still unresolved issues brought forward by Pilgrim Watch remained pending before the Commission and its Atomic Safety and Licensing Board.

Pilgrim closed May 31, 2019 because it could not compete with cheaper sources of electricity, mainly natural gas.

In November of 2018, Entergy and Holtec submitted a License Transfer Application (LTA) to the NRC, asking that Pilgrim be sold, and its licenses transferred to Holtec. In February of 2019, the Commonwealth and Pilgrim Watch filed separate motions with NRC to intervene and request a hearing in Pilgrim's license transfer proceeding. Without deciding the Commonwealth and Pilgrim Watch Motions, the NRC granted Entergy's and Holtec's sale and license transfer request in August of 2019.

On June 16, 2020, the Commonwealth of Massachusetts reached an agreement with two subsidiaries of Holtec International, Holtec Decommissioning International, LLC (HDI) and Holtec Pilgrim LLC, to settle the Commonwealth's challenge to transferring Pilgrim Nuclear Power Station ownership and licenses from Entergy to these two Holtec subsidiaries.³

The settlement agreement covers many topics, including financial assurance, site restoration standards, funding commitments to state agencies, and security. As part of the settlement, the

¹ http://www.entergy-nuclear.com/plant_information/pilgrim.aspx

² <http://www.world-nuclear.org/info/Country-Profiles/Countries-T-Z/Appendices/Nuclear-Power-in-the-USA-Appendix-2-Power-Plant-Purchases/>

³ https://www.mass.gov/doc/pilgrim-settlement-agreement/download?_ga=2.17996410.231772208.1594154244-2049834566.1591123061

Commonwealth agreed to withdraw its contentions with NRC to intervene and request for hearing in Pilgrim's license transfer agreement and its pending Petition with the US Court of Appeals for the DC Circuit.

Pilgrim Watch was not part in the settlement, but it greatly appreciates all of the work that the Seth Schofield and Joseph Dorfler of the Attorney General's Office did to achieve it. Pilgrim Watch has not withdrawn its petition to intervene in the license transfer proceeding.

DECOMMISSIONING BASICS

What Is Decommissioning

NRC is responsible for regulating decommissioning.

The Nuclear Regulatory Commission (NRC) defines decommissioning as “safely removing a facility or site from service and reducing residual radioactivity to a level that permits either of the following actions:

- Release the property for unrestricted use and terminate the license.
- Release the property under restricted conditions and terminate the license.”⁴

For nuclear power reactors, the decommissioning process begins when a licensee decides to permanently cease operations. The major steps that make up the reactor decommissioning process are: certification to the NRC of permanent cessation of operations and removal of fuel; submittal and implementation of the post-shutdown decommissioning activities report (PSDAR); submittal of the license termination plan (LTP); implementation of the LTP; and completion of decommissioning.⁵

The NRC’s “Decommissioning program activities include (1) developing regulations and guidance to assist staff and the regulated community; (2) conducting research to develop data, techniques, and models used to assess public exposure from the release of radioactive material resulting from site decommissioning; (3) reviewing and approving decommissioning plans (DPs) and license termination plans (LTPs); (4) reviewing and approving license amendment requests for decommissioning facilities; (5) inspecting licensed and non-licensed facilities undergoing decommissioning; (6) developing environmental assessments (EAs) and environmental impact statements (EISs) to support the NRC’s reviews of decommissioning activities; (7) reviewing and approving final site status survey reports; and (8) conducting confirmatory surveys.”⁶

Consistent with its definition, NRC Rules restrict use of the Decommissioning Trust Fund to “expenses for legitimate decommissioning activities consistent with the definition of decommissioning in § 50.2.” However,

“activities that go beyond the scope of decommissioning, as defined in 10 C.F.R. § 50.2, such as restoration costs to prepare the site for its next use after license termination is complete, are not decommissioning activities. Decommissioning activities also do not include the removal, storage, management and disposal of spent fuel, or the disposal during operation of radiologically contaminated materials or the removal and disposal of nonradioactive structures and materials beyond that

⁴ <https://www.nrc.gov/waste/decommissioning.html>; 10 C.F.R § 50.2

⁵ <https://www.nrc.gov/waste/decommissioning/process.htm>

⁶ <https://www.nrc.gov/waste/decommissioning.html#how>

necessary to terminate the NRC license. Disposal of nonradioactive hazardous waste not necessary for NRC license termination is not covered by these regulations but would be treated by other appropriate agencies having responsibility over these wastes.”⁷

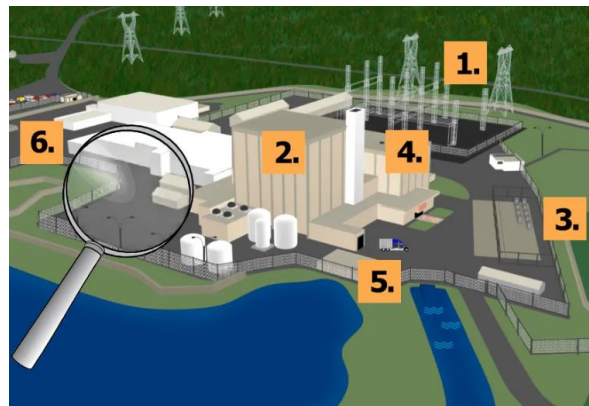
However, the NRC has taken the view that “decommissioning activities include such things as property taxes, emergency planning, liability insurance, and legal and lobbying fees. It has also granted Pilgrim, and others, exceptions from 10 C.F.R. § 50.2, and allowed them to withdraw funds from the DTF for non-decommissioning expenses such as spent fuel storage and site restoration.

What will Pilgrim’s Decommissioning Look Like, According to Holtec?

After Holtec bought Pilgrim in 2019, Holtec Decommissioning International published a paper, “*Pilgrim Nuclear Power Station Decommissioning*,” outlining Holtec’s decommissioning plans.⁸



Holtec first outlined the steps that would occur at Pilgrim:



⁷ <https://www.nrc.gov/docs/ML1533/ML15335A187.pdf>

⁸ Pilgrim Nuclear Power Station Decommissioning, <https://hdi-decom.com/our-fleet/pilgrim-decommissioning/>.

1. Pilgrim shut down its reactor for the final time on Friday, May 31, at 5:28 p.m. This removed 670 megawatts of electricity from the regional grid.
2. Pilgrim's nuclear fuel has been removed from the reactor vessel core and placed in the spent fuel pool to cool.
3. Once cooled, the fuel will be placed in stainless steel canisters and transported to the Independent Spent Fuel Storage Facility (ISFSI) on station property.⁹
4. Radioactive equipment and components are dismantled per decommissioning plan that is reviewed, but not approved by the NRC.
5. Contaminated components are dismantled, packaged, and transported to a licensed off-site facility.
6. The site is inspected by state and federal agencies to ensure the property has been returned to conditions outlined in the decommissioning plans. Both the State and Federal agencies will continue to monitor the site.

Holtec's "*Pilgrim Nuclear Power Station Decommissioning*" also noted that NRC regulations allow a company what decommissioning option to use:

SAFSTOR (Safe Storage) - Plant is kept intact, all fuel is placed in spent fuel pool or dry storage casks and time is used as a decontaminating agent. Plant is then dismantled similar to DECON once radioactivity has decayed to lower levels.

DECON (Decontamination) - Contaminated equipment and materials are removed (used nuclear fuel rods and equipment account for over 99 percent of the plant's radioactivity). Plant is then dismantled - this phase can take five years or longer. Holtec International LLC chose this option.

Holtec has chosen DECON.

Finally, Holtec described the process for terminating the NRC license and releasing the site.

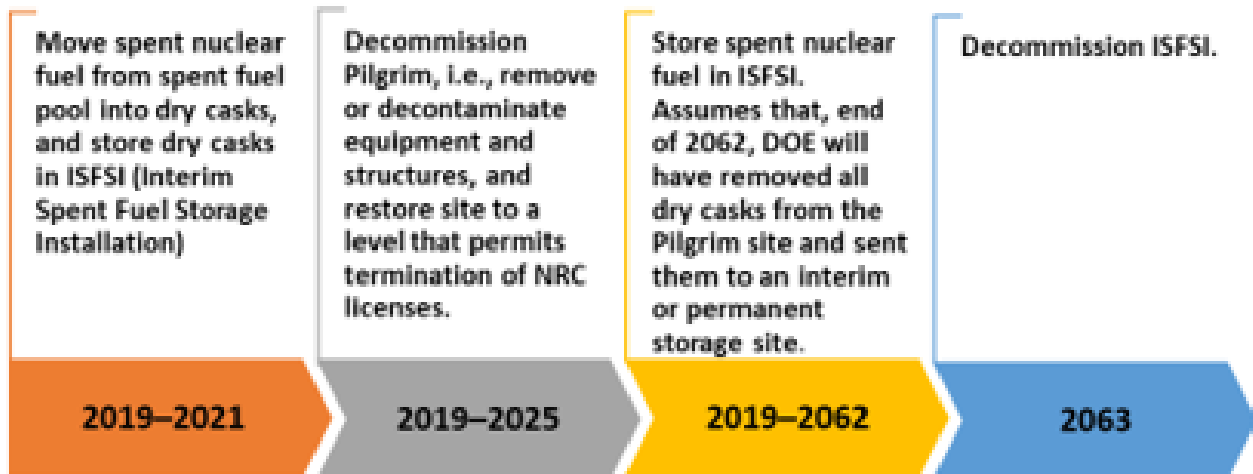
As the DECON phase nears completion, the company must submit a license termination plan to the NRC. This needs to occur within two years of the proposed license termination date. After the NRC receives the license termination plan, affected states, local communities and tribes may submit comments on the plan at a public meeting near the facility. The public also has the opportunity to request an adjudicatory hearing. Members of the public may observe any meeting the NRC holds

⁹ This will take place over a period of 2-3 years. Initially the fuel will be placed on a pad close to Cape Cod Bay. A new pad is being constructed on higher ground (75' above MSL) 362' from a public road, Rocky Hill Road. The new pad will be completed in 2021 and all canisters will be transported from the old pad to the new.

with the company, unless the discussion involves proprietary, sensitive, safeguarded, or classified information.

Once public concerns are addressed, the NRC will terminate the license if all work has followed the approved license termination plan and the final radiation survey shows that the site is suitable for release. Most plans envision releasing the site to the public for unrestricted use, meaning any residual radiation would be below NRC's limits of 25 millirem per year. This completes the decommissioning process. The Independent Spent Fuel Storage Installation has a separate license. It will not be terminated until the fuel leaves the site.

Our understanding of Holtec's currently planned (except that moving fuel from the spent fuel pool into dry casks may extend into 2022 and that partial site release is expected in 2027) decommissioning schedule is shown below.



Decommissioning a Nuclear Power Plant

Frequently Asked Questions

There are many questions about decommissioning in general,¹⁰ and decommissioning Pilgrim in particular, that a paper prepared by the Holtec paper cited did not answer.

What is Decommissioning? How Long? Who Pays?

Q1. What is decommissioning?

A1. According to the NRC, decommissioning refers to the process of removing residual radioactivity at a commercial nuclear plant once it has been permanently retired. Nuclear power plant decommissioning is regulated by the Nuclear Regulatory Commission (NRC), and involves removing a facility from service and reducing residual radioactivity to a level that permits release of the property and termination of the license.¹¹

NRC regulations allow a site to be released for unrestricted use if the residual radiation is not more than 25 millirem/year, and for the site to be released for restricted use if the level of residual radiation is as much as 100-500 millirem/year. Some states have more conservative limits. The Commonwealth asked Holtec to agree to a less than 10 millirem/year limit and less than 4 millirem/year in drinking water sources of groundwater.

The decommissioning process for Pilgrim involves disposal of radioactive components and materials; cleanup of radioactivity; and dismantling of the plant so the site can be released for other purposes. Pilgrim's owner, now Holtec, remains accountable to the NRC until decommissioning has been completed and the NRC has terminated Pilgrim's licenses.

Although most assume otherwise, the NRC definition of decommissioning does not include the cleanup of non-radioactive hazardous waste, the removal or storage of spent fuel, the demolition or removal of decontaminated structures, or restoring the site to its original condition.

Q2. Why are nuclear power plants decommissioned?

A1. Nuclear power plants are initially licensed for 40 years, with the option to seek 20-year license extensions. Pilgrim's license was extended in 2012 for an additional 20 years. Entergy decided to close Pilgrim before the extended license would expire because continued operation of Pilgrim was not economically feasible.

¹⁰ NRC documents addressing frequently asked questions about decommissioning include <https://www.nrc.gov/waste/decommissioning/faq.html> and NUREG – 1628 <https://www.nrc.gov/docs/ML0037/ML003726190.pdf>

¹¹ See <https://www.nrc.gov/reading-rm/basic-ref/glossary/decommissioning.html>

Q3. How long will decommissioning take?

A1. The NRC requires that nuclear plants be decommissioned within 60 years after permanently ceasing power operations. Holtec plans to decommission Pilgrim on a schedule that will complete decommissioning and will permit NRC to release the site and (except for the ISFSI) and terminate Pilgrim's operating license, in about ten years. The ISFSI will remain until all spent nuclear fuel has been removed from the site, after which it will be decommissioned, and the separate ISFSI license will be terminated.

Q4. Who pays for decommissioning and how much will it cost?

A1. In theory, Pilgrim's decommissioning costs will be paid by Pilgrim's licensees, Holtec-Pilgrim LLC. and Holtec Decommissioning International LLC., using the Decommissioning Trust Fund (DTF). The DTF is essentially the licensee's only asset. An important question is whether the DTF has enough money to pay not only for decommissioning (as defined by the NRC) but also spent fuel storage and site restoration.

According to the NRC, a DTF must provide financial assurance for decommissioning (again as defined by the NRC) by one or more of the following methods:

- **Prepayment:** In this case, at the start of operations, the licensee deposits enough funds to pay the decommissioning costs into an account. The account is segregated from the licensee's other assets and remains outside the licensee's control of cash or liquid assets. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.
- **External sinking fund:** An external sinking fund is established and maintained by setting funds aside periodically into an account segregated from licensee assets and outside the licensee's control. The total amount of these funds will be sufficient to pay decommissioning costs when it is anticipated that the licensee will cease operations. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.
- **Surety method, insurance, or other guarantee method:** A surety method may be in the form of a surety bond, letter of credit, or line of credit. Any surety method or insurance used to provide financial assurance must be open-ended or, if written for a specific term, such as 5 years, must be renewed automatically. An exception is allowed when the issuer notifies the Commission, the beneficiary, and the licensee of its intent to not renew within 90 days or more preceding the renewal date. The surety or insurance must also provide that the full face amount be paid to the beneficiary automatically preceding the expiration date without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Commission within 30 days after receipt of notification of cancellation. In addition, the surety or insurance must be payable to a trust established for decommissioning costs, and the trustee and trust

must be acceptable to the Commission. The surety method or insurance must remain in effect until the Commission has terminated the license.

Pilgrim's DTF was funded through customer contributions established when the reactor initially went online in 1972, and the fund grew through investments managed by its Trustee, Bank of New York Mellon. None of Pilgrim's owners (Boston Edison, Entergy, Holtec Pilgrim) has put a dime into the Decommissioning Trust Fund (DTF).

Holtec's 2018 Post-Shut Down Activities Report (PSDAR) said that total decommissioning costs would be \$1.134 billion, that withdrawals from the trust fund would also total \$1.134 billion, and that \$3.6 million would be left over at the end of 2063. A March 31, 2020 Holtec filing with the NRC¹² says that the net value of the DTF was \$979 million as of December 31, 2019, and that future total decommissioning costs will be \$1.031 billion (a total of \$1.132 billion including the \$101 million spent in 2019).

The DTF is the only source of money for decommissioning Pilgrim. Holtec Decommissioning Inc. and Holtec-Pilgrim are wholly owned subsidiaries of Holtec International, but Holtec International has made clear that it will not take financial responsibility and the NRC has no legal authority to require it to do so.

The Commonwealth of Massachusetts and Pilgrim Watch do not believe that the DTF has enough money and filed Motions to Intervene and Requests for Hearing in the License Transfer Agreement from Entergy to Holtec with NRC in February 2019. The Commonwealth signed a Settlement with Holtec Pilgrim and Holtec Decommissioning International June 2020. Pilgrim Watch was not part of the Settlement and its motions with NRC to intervene remain.

Q5. What is the status of Pilgrim's decommissioning, May 2020?

A1. According to Holtec:

Spent Fuel: A new ISFSI pad and haul road for moving dry casks to the new pad are under construction. The new ISFSI will be 75 feet above mean sea level (MSL) and 362 feet from a public road (Rocky Hill Road) and is scheduled to be completed by 2021. All spent fuel is projected to be out of the spent fuel pool and in dry casks by the end of 2021.

Plant equipment: Equipment that is no longer needed has been de-energized and removed from service. Major dismantlement work could begin in mid-2019, subject to obtaining the required regulatory approvals.

Deconstruction: The drywell head segmentation project is underway.

Site Cleanup: A contractor is being hired to perform a site assessment.

¹² NRC Electronic Library, Adams, Accession Number ML20091M858

Radioactive Waste

Q1. What kinds of radioactive waste are there and how are they classified?

A1. Radioactive wastes are classified, not according to the threat they pose to human health or the environment or how long that remain radioactive, but according to the process which produced the waste. There are two general categories: High Level Waste, and Low Level Waste. One category of Low Level Waste, Greater than Class C Waste, is highly radioactive.

Q2. What is High Level Waste (HLW)?¹³

A1. HLW means the highly radioactive materials produced as byproducts of fuel reprocessing or of the reactions that occur inside nuclear reactors. HLW includes:

- Irradiated spent nuclear fuel discharged from commercial nuclear power reactors
- The highly radioactive liquid and solid materials resulting from the reprocessing of spent nuclear fuel, which contain fission products in concentration (this includes some reprocessed HLW from defense activities and a small quantity of reprocessed commercial HLW)

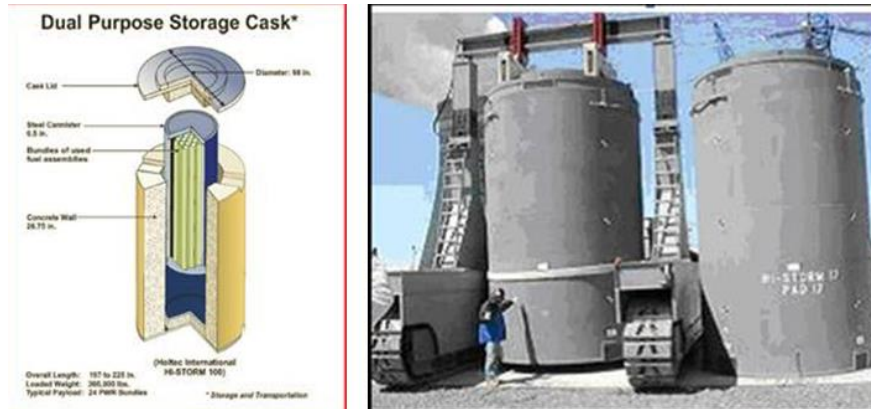
Q3. What is Spent Nuclear Fuel?

A1. When spent nuclear fuel is removed from a reactor, usually after several years of power production, it is thermally hot and highly radioactive. The spent fuel is in the form of fuel assemblies, which consist of arrays of metal-clad fuel rods 12-15 feet long. A fresh fuel rod, which emits relatively little radioactivity, contains pellets made of uranium that has been enriched in the isotope U-235 (usually to 3%-5% from its natural level of 0.7%). But after nuclear fission has taken place in the reactor, most of the U-235 nuclei in the fuel rods have been split into a variety of highly radioactive fission products. Some of the nuclei of the dominant isotope U-238 have absorbed neutrons and then decayed to become radioactive plutonium, some of which has also split into fission products (and some of which are gases).

Q4. How is Spent Fuel Stored?

A1. Pilgrim will store its spent nuclear fuel onsite in 61 dry casks until an offsite repository is available, either a deep geological repository or consolidated interim site. Additional casks will be used to store Greater-Than-Class-C radioactive waste that eventually also must go to a deep geological repository. The casks are lined up on a concrete pad, called an Independent Spent Fuel Storage Installation (ISFSI). The pad and casks are not enclosed or covered. Casks in the new ISFSI are not enclosed in a building or protected from line-of-sight attack by a reinforced wall. Until vegetation is planted, casks will be visible from Rocky Hill Road.

¹³ See: <https://www.nrc.gov/reading-rm/basic-ref/glossary/high-level-waste.html>



Q5. Will the Independent Spent Fuel Storage System (ISFSI), casks and concrete storage pad, remain on the site even after decommissioning is completed?

A1. Holtec, and its cost estimates, assume that the Department of Energy will take title to the spent fuel and remove it from Pilgrim’s site by 2062. However, there is no offsite storage available. Holtec has submitted an application to build a consolidated interim storage facility for spent fuel, called HI-STORE₂ in New Mexico. Pilgrim’s used fuel could be relocated to this facility. But the site is opposed by the State of New Mexico, a local Native American tribe and public interest groups. Litigation is ongoing. WCS submitted an application to build a consolidated interim storage facility for spent fuel in Texas. It also faces opposition.

The only realistic assumption is that Pilgrim’s spent nuclear fuel nuclear waste will be stored at Pilgrim for years after 2062, perhaps indefinitely. The NRC’s 2014 Continued Storage Rule¹⁴ recognizes that spent fuel may be stored on-site for 300 years. The Rule requires that the casks and pad be changed every a hundred years; “new” casks and pad at Pilgrim would not be required until 2119, 57 years after the date that Holtec, with no reasonable basis, assumes all of the fuel will be gone.

Q6. How much used nuclear fuel is stored at Pilgrim?

A1. There are 4,114 fuel assemblies at Pilgrim; all the nuclear fuel that has been used at Pilgrim since the plant started generating electricity in 1972. The spent nuclear fuel in the assemblies will stay radioactive for thousands of years.

Waste Disposal and Shipping

Q1. What type of waste will be removed from the plant?

A1. Generally, there are two broad types of radioactive waste at Pilgrim and other commercial nuclear plants: used nuclear fuel which is high-level waste, and low-level waste such as

¹⁴ <https://www.nrc.gov/waste/spent-fuel-storage/wcd.html>

demolition debris. Some of which is highly radioactive and long-lived. This waste will be disposed of according to NRC guidelines.

Additionally, there also is non-radioactive but hazardous industrial/chemical waste. Construction materials, mainly concrete and steel, must be removed from Pilgrim during decommissioning, along with oil, PCB, asbestos, and other hazardous materials.

Q.2 How will Pilgrim's radioactive waste be stored offsite?

A1. LLRW Offsite Storage: Pilgrim used to send its low-level radioactive waste to Barnwell, South Carolina. Massachusetts lost that option. Now Pilgrim sends its low-level radioactive waste to storage in Clive, Utah, after it is blended at the Irwin Resin Processing Facility in Irwin, Tennessee. Massachusetts General Laws Chapter 111 H established the Low - Level Radioactive Waste Management Board (Board) to manage the options available to the Commonwealth for dealing with low level radioactive waste.¹⁵ See its website for information on LLRW in the state. Decommissioning produces large volumes of low level and Greater-Than-Class C wastes.

A2. Spent Fuel & Greater-Than Class C Waste Offsite Storage: Deep geological repository or in an interim consolidated site once developed and available.

Q3. How will the waste be removed from the site?

A1. Holtec says that it continues to explore all options for removal of materials from the site, including trucking and barging of waste.¹⁶

High Burnup Spent Fuel

Q.1 What is High Burnup Fuel (HBU)?

A1. Pilgrim's spent fuel contains 35-37% HBU. This fuel contains a higher percentage of uranium 235, allowing reactor operators to effectively double the amount of time the fuel can be used in the core to generate heat and electricity. Once it is used, high burnup significantly boosts the radioactivity in spent fuel and its commensurate decay heat. Of concern is the damage that high-burnup fuel may have on the cladding of the fuel, creating leakage.

Critics¹⁷ say that high-burnup fuel reduces the fuel cladding thickness and a hydrogen-based rust forms on the zirconium metal used for the cladding, which can cause the cladding to become

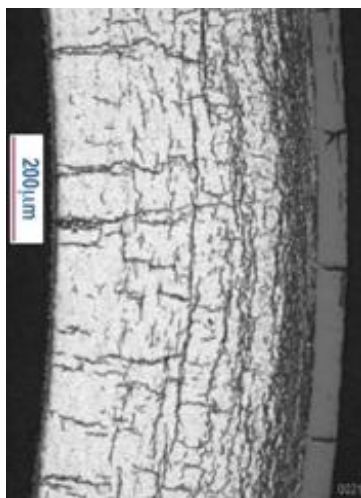
¹⁵ See MDPH website for information.

<http://www.mass.gov/eohhs/gov/departments/dph/programs/environmental-health/exposure-topics/radiation/low-level-radioactive-waste.html>

¹⁶ See transportation routes to Yucca Mountain at <http://www.state.nv.us/nucwaste/whatsnew.htm>

¹⁷ See for example Spent Power Reactor Fuel: Pre-Disposal Issues, Robert Alvarez, Institute for Policy Studies, March 3, 2017 at http://www.lasg.org/waste/Alvarez_SNF_closed_reactors_rev3_3Mar2017.pdf; and <https://www.nrc.gov/docs/ML1831/ML18317A443.pdf>

brittle and fail. In addition, under high-burnup conditions, increased pressure between the uranium fuel pellets in a fuel assembly and the inner wall of the cladding that encloses them causes the cladding to thin and elongate. In addition, the same research has shown that high burnup fuel temperatures make the used fuel more vulnerable to damage from handling and transport; cladding can fail when used fuel assemblies are removed from cooling pools, when they are vacuum dried, and when they are placed in storage canisters.^{18 19 20} The uncertainties of storing a mix of high- and low-burnup spent fuel in a canister are compounded by the lack of data on the long-term behavior of high-burnup spent fuel. At Maine Yankee and Zion, high burnup used nuclear fuel assemblies are packaged in damaged fuel cans, which eliminates the concern over the transportability of this high burnup fuel.²¹



Cladding Cracks

NRC says that HBU can be stored or transported safely for 60 years but has not provided all supporting documentation, nor indicated what will happen after 60 years.²²

¹⁸ U.S. Nuclear Regulatory Commission, Rulemaking Issue, Notation Vote, Memorandum from: R.W. Borchardt, Executive Director for Operations, Subject: Proposed Rulemaking – 10CFR 50.46c Emergency Core Cooling System Performance During Loss-of-Coolant Accidents (RIN 3150-AH42), SECY-12-0034, March 1, 2012, p. 2. <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2012/2012-0034scy.pdf>

¹⁹ International Atomic Energy Agency, Impact of High-Burnup Uranium Oxide and Mixed Uranium – Plutonium Oxide Water Reactor Fuel on Spent Fuel Management, IAEA Nuclear Energy Series, No. NF-T-3.8, June 2011. P. 39. http://www-pub.iaea.org/MTCD/Publications/PDF/Pub1490_web.pdf

²⁰ Ibid. p.69.

²¹ U.S. Department of Energy, Preliminary Evaluation of Removing Used Nuclear Fuel from Nine Shutdown Sites, PNNL-22418, April 30, 2013. http://www.pnnl.gov/main/publications/external/technical_reports/PNNL-22418.pdf

²² NRC NUREG 2224 Dry Storage and Transportation High Burnup Spent Fuel Draft Report for Public Comment, Sept 6, 2018 (NRC Library, Adams, Accession Number ML18247A321) <https://www.nrc.gov/docs/ML1824/ML18247A321.pdf>

Environmental

Q1. When will a site characterization occur?

A1. Holtec and the NRC appear to agree that an accurate cost estimate is necessary for a safe and timely plant decommissioning (NUREG-0586, Supplement 1, p. 68; DCE, p.55.) But, at the time Holtec filed its PSDAR, Holtec had not characterized the Pilgrim site and did not know what radioactive materials and hazardous waste contaminants are on the site or what it would cost to remove them. Holtec's PSDAR said that it would conduct a site assessment sometime in the future, and subsequently it subcontracted a site characterization study in 2020. In a June 8, 2020 email, Patrick O'Brien, CDI's Manager of Communications and Government Affairs, told us that BHI Entergy would characterize the Pilgrim site, and that the scope of its work would be to review Entergy's Historical Site Assessment (HSA), to scope the survey, develop and execute survey plans, and provide the results in a final report.

NRC regulations require Holtec to perform a final status survey at least two years before partial site release.

The Commonwealth's Settlement:

Paras. 10(a)-(c) and (e)-(m) are concerned with what Holtec does to assess the condition of the Pilgrim site and to remediate it. Para. 11 requires Holtec to "submit to DEP and DPH for their review and approval the Initial Pilgrim Environmental Site Assessment work plan prepared by the LSP (Licensed Site Professional) retained in accordance with Paragraph 10(b)." Paragraph 12 requires Holtec, DPH and DEP to meet and confer, and for Holtec eventually to "perform all actions in the Initial Pilgrim Environmental Site Assessment work plan."

These paragraphs of the Settlement Agreement are directed to "plans;" and exactly what any approved plan will require is unclear. The Settlement Agreement says little or nothing about how the Commonwealth is to ensure that Holtec has properly "perform[ed] all actions in the Initial Pilgrim Environmental Site Assessment work plan."

Moreover, Para. 10(a) of the Agreement carefully limits the information that Holtec must provide DEP and DPH to documents "related to radiological and non-radiological contamination at the Site that it or Holtec International possesses or may come to possess through a request to Entergy" within 60 days of the Agreement's effective date. It avoids documents prior to deregulation when Pilgrim was operated by BECO and had significant radiological releases.

We are concerned that Holtec's site assessment will be inadequate, and that it will be carefully designed to discover as little contamination as possible and to ensure that as little remediation as possible will be done.

Q2. Will buildings and structures be removed below grade?

A1. According to Holtec’s 2018 PSDAR, during demolition, above-ground structures will be removed to a nominal depth of three (3) feet below the surrounding grade level; characterization surveys will then be performed in the remainder of the below ground structures and any areas with activity exceeding established DCGLs will be removed; and Final Status Surveys, including NRC verification surveys, will be conducted. Once the NRC approves the Final Status Surveys, Holtec says that affected area(s) will be backfilled with suitable fill materials, graded, and appropriate erosion controls established. Site restoration activities will begin in non-radiological areas after demolition of buildings and structures outside the radiological controlled area. Final site restoration will be completed after ISFSI decommissioning and demolition is completed.

According to Holtec’s PSDAR, site restoration will include only “conventional dismantling, demolition, and removal from the site of structures and systems after confirmation that radioactive contaminants have been removed” (pg.19), and only a “relatively small amount of the decommissioning cost ... [is] for the demolition of uncontaminated structures and restoration of the site.” (p. 62).

According to the June 2020 Settlement the Switchyard shall remain and those structures DEP approves can remain onsite. Holtec may retain shoreline and in-water structures subject to MGL c.91 as they are licensed by DEP or in the case of the seawall approved by DEP and Holtec proves removing them would be more detrimental than leaving them in place.²³

Q3. What will happen to the water in the reactors and spent fuel pool?

A1. Holtec says that water used during the decommissioning project in each reactor cavity and the spent fuel pools will be purified using specialized water treatments; and that before treated water is discharged to the ocean, it will be sampled to ensure compliance with NRC regulations and a state NPDES permit.

Emergency Preparedness

Q1. Does Pilgrim continue to have emergency preparedness plans in place in case there is a radiological problem?

A1. Yes and no. Before shut-down, Pilgrim was required to have both on-site and off-site radiological emergency plans. Ten (10) months after defueling, April 1, 2020, Pilgrim was not required by NRC to have, and has discontinued, off-site emergency planning. The NRC exempted Pilgrim from offsite radiological emergency planning obligations.²⁴

On April 1, 2020, Holtec informed the Commonwealth and neighboring communities that offsite emergency response facilities including Pilgrim’s primary and alternate Emergency Offsite

²³ Settlement Agreement between the Commonwealth of Massachusetts and Holtec Pilgrim LLC an Holtec Decommissioning International LLC Regarding Pilgrim..., June 2020, Section III, 3, g, 2

²⁴ <https://www.nrc.gov/reading-rm/doc-collections/news/2019/19-056.pdf>

Facility, Joint Information Center, community reception centers, and town emergency facilities (with the exception of Plymouth) will no longer be part of response plans. Also, the 113 Prompt Alert Notification System sirens will be disabled, and Holtec will tell only the Town of Plymouth and the NRC if there has been an accident.

The NRC's stated justification for not requiring off-site emergency planning are the NRC's misguided and erroneous "assurance that an accident at Pilgrim can no longer credibly challenge radiological Protective Action Guidelines beyond the site boundaries." The fact of the matter is that the risk "beyond the site boundaries" is more than "credible;" it certainly is not zero. There is far more radiation in the spent fuel pool and casks than was in the reactor core when Pilgrim was operating. Risk will remain until the spent fuel leaves the site. FEMA, Massachusetts, and other states are on record saying that their "all-hazards planning" would not be adequate to respond - "radiological [emergency planning] is unique." We are at risk mainly because of the spent nuclear fuel now owned by Holtec and created by its predecessors.

Holtec initially refused to continue or pay the costs of offsite radiological emergency planning including training and equipment, with the exception that Plymouth that will receive funds until the spent fuel pool is emptied. Subsequently, the Settlement Agreement between the Commonwealth and Holtec Pilgrim and HDI, June 2020, included a payment schedule to MEMA. (Settlement Section IV, Table 2) The payment schedule for a specified scope of work are far less than during operations and decrease to a mere \$15,000/year from 2029 until license termination, expected in 2062. Money for EPZ towns and Reception Center communities to provide radiological emergency planning are not included in the Settlement.

The five towns within Pilgrim's Emergency Planning Zone and the three towns hosting Reception Centers later negotiated separate agreements with Holtec Pilgrim/HDI. The money was far less than they previously received and far less that they believed needed to protect the community in a radiological disaster.²⁵

²⁵ Carver- \$75,000 for three months of EPZ and to unwind the RERP and breakdown the alternate EOF. Duxbury- \$63,750, broken down as \$21,250 for the three months of the EPZ in 2020 and \$42,500 to unwind the RERP – also has language that at any point during the 8-year decommissioning if they provide mutual aid to the site and their equipment becomes contaminated Holtec will provide replacement at no cost to the community. Kingston - \$63,750, same break down as Duxbury and language. Marshfield - \$120,196.21 three months of EPZ payments, they have chosen to go the legal route as they do not believe their agreement is the same as other communities. Plymouth has a 2 ½ year agreement through June 30, 2022 as the host community for Police and Fire services. Break down as \$150,000 1/1/20 to 6/30/20 and then \$230,000 the following two years 7/1/20-6/30/21 and 7/1/21-6/30/20. Braintree RC - \$42,000 Three months plus costs to breakdown the program. Taunton RC - \$56,500 three months plus costs to breakdown the program. Bridgewater RC - \$57,500 three months plus costs to breakdown the program

License Termination

Q1. When will the station's NRC license be terminated?

A1. Termination of Pilgrim's license will take place when site building demolition and remediation operations are completed, and the remaining grounds have been surveyed to ensure they meet the NRC criteria for residual radioactivity levels. The specific activities and radiological criteria will be defined in the plant's termination plan, which must be filed with the NRC at least two years prior to license termination.

Termination of the Independent Spent Fuel Installation Facility (ISFSI) license will take place when the spent fuel leaves the site, and the pad area has been surveyed and remediated, if required.

Q2. What is Holtec's plan for the Pilgrim site and adjacent property after it completes decommissioning?

A1. Holtec says that it currently has no immediate plans for any of the property. As decommissioning proceeds further along, Holtec says it will work with the local community about possible future uses. The Town of Plymouth would like Holtec to give it the property.

Regulatory Oversight/Permitting

Q1. What state and federal agencies are involved in the decommissioning processes

A1. Several agencies have important roles to play, especially: The Massachusetts Attorney General; and the Executive Branch - Governor, Secretary Health & Human Services, Secretary Energy and Environmental Affairs, Secretary Public Safety, and the Secretary of Housing and Economic development. On the federal level, primarily the Nuclear Regulatory Commission and Environmental Protection Agency. The Department of Energy eventually will be responsible for the spent nuclear fuel.

A2. Massachusetts has formed two advisory groups. An Interagency Working Group was established within the Executive branch to monitor pre- and post-shutdown processes at Pilgrim, and to lead and coordinate state agency involvement in any matters pertaining to decommissioning within the respective agencies' jurisdiction. The legislature established a Nuclear Decommissioning Citizens Advisory Panel established by the legislature to advise the Governor and educate citizens on activities related to Pilgrim's decommissioning.²⁶

²⁶ <https://www.mass.gov/orgs/nuclear-decommissioning-citizens-advisory-panel>

Regulations

Q1. What are the NRC Decommissioning Regulations?

A1. The requirements for decommissioning a nuclear power plant are set out in several NRC regulations - Title 10 of the Code of Federal Regulations, Part 20 Subpart E, and Parts 50.75, 50.82, 51.53, and 51.95. In August 1996, a revised rule went into effect that redefined the decommissioning process and required owners to provide the NRC with early notification of planned decommissioning activities. The rule allows no major decommissioning activities to be undertaken until after certain information has been provided to the NRC and the public. The NRC is currently developing new regulations. These regulations are expected to be final by 2022.

Public Involvement

Q1. What opportunities are there for public involvement?

A1. The NRC held a public meeting in Plymouth after submittal of the post-shutdown decommissioning activities reports to the NRC. Another public meeting will be held when NRC receives the license termination plan. Members of the public may be allowed to observe other meeting of the NRC and licensees (except when the discussion involves proprietary, sensitive, safeguards, or classified information).

A2. The Atomic Energy Act requires the NRC to provide an opportunity for a public hearing prior to issuance of a license amendment approving a plan or any other license amendment request. The state, townships, public interest groups, and individuals may file motions to intervene. In February of 2019, the Massachusetts Attorney General on behalf of the Commonwealth and Pilgrim Watch filed petitions requesting a public hearing on whether Pilgrim's licenses should be transferred to Holtec and asking to intervene. The NRC allowed the licenses to be transferred to Holtec in August of 2019, but it has taken no action on the Commonwealth's or Pilgrim Watch's requests.²⁷ June 2020, the Commonwealth agreed to drop its litigation with NRC and the DC Circuit when it signed the Settlement Agreement.

²⁷ Pilgrim Watch Petition to Intervene & Request for Hearing, NRC Electronic Library, Adams, Accession Number ML19051A019; Commonwealth Petition to Intervene & Request for Hearing, NRC Electronic Library, Adams, Accession Number ML19051A114

Recommended Reading

**PILGRIM WATCH &
COMMONWEALTH'S
MAIN FILINGS IN
PILGRIM LICENSE
TRANSFER
APPLICATION**

To access filings, go to the NRC website's front page- <https://www.nrc.gov/>. In the upper right corner of the front page, enter ML number in search box.

Pilgrim Watch Petition to Intervene & Request for Hearing	ML19051A019
Commonwealth Petition to Intervene & Request for Hearing	ML19051A114
Pilgrim Watch Comments relative to Holtec PSDAR and Decommissioning Cost Estimate	ML19064B330
Applicants Oppose Pilgrim Watch Motion	ML19077A235
Applicants Oppose Commonwealth Motion	ML19077A232
Pilgrim Watch Reply to Applicants' Answer Opposing Pilgrim Watch Motion	ML19091A189
Pilgrim Watch Supplement to Motion (Biodiversity)	ML191129A473
Pilgrim Watch Motion to File New Contention (Holtec/SNC-Lavalin Malfeasance)	ML19197A330
Application for a Stay of Staff's Actions Approving the License Transfer and Request for Exemption to Use Decommissioning Trust Fund for Non-Decommissioning Purposes	ML19247B429

NRC-Backgrounder on Decommissioning <https://www.nrc.gov/reading-rm/doc-collections/fact-sheets/decommissioning.html>

Staff Responses to Frequently Asked Questions Concerning Decommissioning of Nuclear Power Reactors (NUREG-1628) <https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1628/>

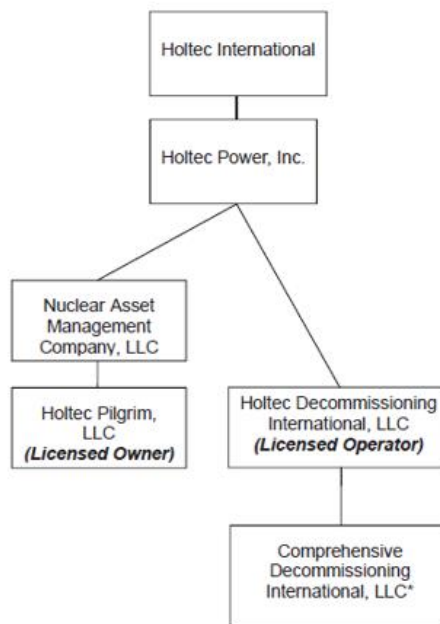
Questions and Answers on Decommissioning Financial Assurance <https://www.nrc.gov/docs/ML1119/ML111950031.pdf>

PILGRIM'S DECOMMISSIONING – HOLTEC

Holtec International is a privately-owned company that is best known for manufacturing dry casks used to store spent nuclear fuel. It recently expanded its business to include decommissioning retired commercial nuclear power reactors. Over the last two years, Holtec has purchased, or agreed to purchase, and decommission 6 reactors: Oyster Creek, Palisades, Indian Point (3 reactors) and Pilgrim.²⁸

The purchase of Pilgrim from Entergy was completed in August of 2019. We understand that the purchase price was “nominal,” probably close to the \$1000 for which Entergy sold Vermont Yankee to NorthStar. In exchange, Holtec acquired the about-to-rotate Pilgrim plant, its roughly billion-dollar decommissioning trust fund, thousands of assemblies of spent nuclear fuel, the obligation to decommission, and potential for hundreds of millions of dollars profit.

The corporate structure that Holtec International created to accomplish the purchase and decommissioning is described in detail in the License Transfer Application (LTA) filed with the NRC on November 16, 2018.²⁹ It is shown in the simplified post-transfer organization chart below.



Note:

* Comprehensive Decommissioning International, LLC ("CDI") is jointly owned by Holtec (through its subsidiary, Holtec Decommissioning International, LLC ("HDI"), the majority owner) and SNC-Lavalin (through its subsidiary, Kentz USA, the minority owner). HDI will contract with CDI through a Decommissioning General Contractor Agreement.

Except that it is now indirectly owned by Holtec International and has a new name, Holtec Pilgrim is the same legal entity as Entergy Nuclear Generating Co. (ENGCO) that owned Pilgrim prior to the

²⁸ <https://hdi-decom.com/our-fleet/>

²⁹ <https://www.nrc.gov/docs/ML1832/ML18320A031.pdf>

transfer. As a result of the transaction, Holtec Pilgrim now owns the Pilgrim plant, the Pilgrim site, and the Pilgrim Decommissioning Trust Fund.

Holtec Decommissioning International, LLC (“HDI”) is another indirect wholly owned subsidiary of Holtec International. HDI is a special purpose entity that was recently formed by Holtec to be the licensed operator for all Holtec-owned nuclear power plants. HDI will be the licensed operator that will decommission all the nuclear power plants, including Pilgrim, owned by Holtec International; and will manage the decommissioning trust fund as well as licensing strategy, insurance, land, and government interface.

According to the License Transfer Agreement (LTA), Holtec Pilgrim will enter into a Decommissioning Operator Services Agreement with HDI, which will provide for HDI to act as Holtec Pilgrim’s agent and for Holtec Pilgrim to pay HDI’s costs of post-shutdown operations, including decommissioning costs and spent fuel management costs.

Comprehensive Decommissioning International, LLC (“CDI”) is a little different. It was formed in 2018 by Holtec International through its subsidiary HDI, with the express purpose of creating a company to provide all-encompassing project solutions for the accelerated decommissioning of retired nuclear power plants.”³⁰ CDI is jointly owned by HDI (the majority owner) and by HDI and a Canadian company, SNC-Lavalin (“SNCL”). Pursuant to a Decommissioning General Contractor Agreement between it and HDI, CDI will be the decommissioning general contractor, and will manage and perform Pilgrim’s day-to-day activities, including decommissioning activities, subject to HDI’s direct oversight and control as the licensed operator.

There are at least six (6) other things to note.

1. All the companies that will have anything to do with decommissioning are Limited Liability Corporations. All except for CDI are wholly owned subsidiaries of Holtec International; and Holtec International indirectly owns the majority (and controlling) interest in CDI. All are new companies, none of which has decommissioned a nuclear power plant before.
2. Holtec International chose this corporate structure for a reason – to avoid potential liability and financial responsibility. Because Holtec Pilgrim and HDI are LLC’s, neither Holtec International, nor Holtec Power Inc., nor Nuclear Asset Management Company, LLC, nor SNC-Lavalin nor SNC’s subsidiary Kentz USA, have any financial responsibility if Holtec Pilgrim and HDI do not have sufficient funds to pay the costs of decommissioning, or any liability if some aspect of decommissioning goes wrong. If CDI botched decommissioning, only it (and perhaps HDI that was supposed to oversee and control the process) would be liable.

³⁰ [https://cdidecom.com/about us](https://cdidecom.com/about-us).

3. Only Holtec Pilgrim and HDI are licensed by the NRC. The NRC has no authority to require Holtec International, Holtec Power, Inc. Nuclear Asset Management Company, SNCL
4. The NRC will tell you that its regulations provide “reasonable assurance of obtaining the funds necessary ... for decommissioning.” Unfortunately, this is simply not so. The NRC cannot require any entity that is not a licensee to pay. Here, the only licensees are HDI and Holtec Pilgrim.
5. Holtec’s plan is to decommission six reactors at four nuclear stations located in four different states - Massachusetts, New York, New Jersey, and Michigan – at basically the same time. At essentially the same time, Holtec also plans to build a Consolidated Spent Fuel storage site in New Mexico. We fear that Holtec has bitten off far more than it can chew, and that this will negatively impact the quality of oversight and attention to detail needed to properly decommission Pilgrim Station.
6. Numerous news media have reported that Holtec and SNC-Lavalin (SNCL) have a long-standing history of corruption, fraud, bribery and lying in connection with their business dealings.³¹ According to these reports, SNCL, the company that supposedly brings technical experience and expertise to the decommissioning process, has been charged with corruption, fraud, bribery, misleading investors, paying public officials to influence government decision, defrauding other organizations, forging documents, and making illegal political contributions. The reports say that Holtec has made misrepresentations to both the NRC and the State of New Mexico in connection with Holtec’s planned New Mexico waste storage facility, and that its CEO, Dr. Singh has made false statements to New Jersey government officials and attempted bribery in connection with Holtec’s nuclear waste storage business with respect to quality assurance violations.

On July 17, 2019, Pilgrim Watch filed a motion in Pilgrim’s license application proceeding to require the NRC to investigate these allegations and to determine if Holtec and SNC-Lavalin are trustworthy and reliable and otherwise possesses the character prerequisite to allowing them to participate in or control Pilgrim’s decommissioning.³² The NRC has not responded to the motion.

³¹ Corruption media reports, please see: Pilgrim Watch Motion to File a New Contention, July 16, 2019. NRC Electronic Library, Adams, Accession Number ML19197A330 ; [Radioactive and Other Skeletons in SNC-Lavalin's closet...](http://www.beyondnuclear.org/decommissioning/2019/7/26/radioactive-and-other-skeletons-in-snc-lavalin-s closet...) Journal Entry by admin on July 26, 2019, Articles, and other posts : Posted January 10, 2020. <http://www.beyondnuclear.org/decommissioning/2019/7/26/radioactive-and-other-skeletons-in-snc-lavalin-s closet.html>; News reports listed in NRC Library Adams, Accession No. ML19009A326.

³² Pilgrim Watch Motion to File a New Contention, <https://www.nrc.gov/docs/ML1919/ML19197A330.pdf>

FINANCES - IS THERE ENOUGH MONEY?

Holtec Pilgrim is supposed to pay all the costs of decommissioning Pilgrim, storing its spent nuclear fuel, and restoring the Pilgrim site. Its only significant asset is the Pilgrim DTF. So far as we know, the DTF is Holtec Pilgrim's only significant asset, and HDI, the other Pilgrim licensee, has no significant assets.

Holtec's 2018 PSDAR said that total decommissioning costs would be \$1.134 billion, that withdrawals from the trust fund would also total \$1.134 billion, and that \$3.6 million would be left over at the end of 2063.

As discussed in detail below, these estimates are far too low and are based on many unsupportable assumptions.

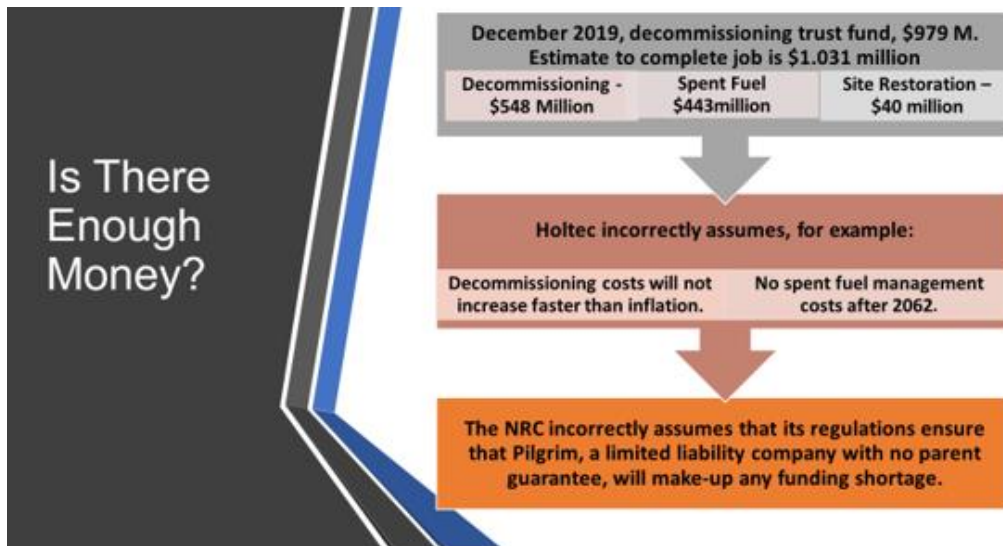


On March 31, 2020 Holtec filed a new financial report with the NRC.³³ This 2020 report says that the net value of the DTF as of December 31, 2019 was \$979 million, that future total decommissioning costs will be \$1.031 billion (a total of \$1.132 million including \$101 million spent in 2019), that withdrawals from the trust fund (again including the \$101 million spent in 2019) will be \$1.165 billion, and the "surplus" will be \$131 million.

The Commonwealth and Pilgrim Watch Motions to Intervene, and subsequent filings by the Commonwealth and Pilgrim Watch to the NRC, explain in detail the reasons that there are insufficient funds in the Decommissioning Trust Fund (DTF) to decommission Pilgrim. The principal reasons are that (i) Holtec's estimates of the cost properly to complete decommissioning are too low, (ii) there is not enough money in the DTF to pay them,³⁴ (iii) no other Holtec entity will agree to make up any shortfall, and (iv) the NRC has no ability to force Holtec International or any other company that has the necessary assets to do so.

³³ NRC Electronic Library, Adams, Accession Number ML20091M858

³⁴ See "Costs the DTF will not be able to pay," below.



The Decommissioning Trust Fund (DTF)

The money needed to decommission and to clean-up Pilgrim will come solely from Pilgrim’s DTF. The amount of money that a licensee must have in the DTF is ordained by the NRC cost formula for decommissioning estimates in 10 CFR §50.75. The formula only considers the costs of “decommissioning,” it does not consider any other costs such as spent fuel storage or restoring the site for future use.

The NRC’s formula also is generic, **not site specific**. It relies upon the age of each nuclear plant, the power level at which the nuclear plant was operated, and whether it is a boiling water reactor (BWR) or pressurized water reactor (PWR). It does not consider hazardous materials, radiological leaks or other environmental or radiological damage to the specific site environment, the cost of massive site remediation, or the conditions, topographical and geological challenges that actually exist at Pilgrim.

The NRC admits that the formula “provides only a “reference level established to assure ... that the bulk of the funds necessary for a safe decommissioning are being considered and planned for early in facility life,” and that it “does not represent the actual cost of decommissioning.”³⁵ Our understanding is that the decommissioning formula created by and applied by the NRC has never correctly estimated the true cost to decommission any nuclear power plant in the United States.

³⁵ NRC Questions and Answers on Decommissioning Financial Assurance, <https://www.nrc.gov/docs/ML1119/ML111950031.pdf>

Our understanding is that no commercial nuclear reactor has been decommissioned for the formula amount. For example, the estimated cost to decommission Big Rock Point was \$220 million; the actual cost was almost twice as much - \$390 million.³⁶

The NRC formula does not and is not intended to ensure that there is enough money in the Pilgrim DTF to do the job. Neither does it provide decommissioning cost information that would enable states to make rational decisions. Simply knowing how much money is currently in Pilgrim's decommissioning fund and then arbitrarily comparing that fund balance against the formula does not make it possible for any governing or regulating body to make an informed decision about how much it really will cost to decommission and clean-up Pilgrim, and what costs Massachusetts and its taxpayers will have to pay.

No Parent Company Guarantee

The NRC has the ability to ask a parent company, such as Holtec International, to provide a parent company guarantee (PCG). A "PCG is defined in Appendix A to 10 CFR Part 30; it is a guarantee between the parent and its subsidiary-licensee stating that the parent company will pay a specific amount of the decommissioning costs of its subsidiary-licensee, if the subsidiary-licensee fails to meet its decommissioning obligation."³⁷

Holtec has refused to provide such a guarantee. Holtec also has refused to use any of its assets or any assets of any of its other subsidiaries, to pay for decommissioning costs if the DTF funds run out.

The likely need for a PCG or some other guaranteed source of additional funds is increased by two facts:

1. the NRC has allowed Holtec to use the DTF for spent fuel management and site restoration activities costs, although those funds by regulation are restricted only for radiological decommissioning and permitting them to be used for other purposes will reduce the amount of money available for decommissioning.³⁸
2. Holtec will sue the Department of Energy (DOE) to recover, and put in its profit pocket, at least the \$500 million it will spend on spent fuel management costs – even though none of this money was Holtec's but rather was taken out of the DTF funded by the public.³⁹

³⁶ <https://www.nrc.gov/waste/decommissioning/faq.html#19>; https://en.wikipedia.org/wiki/Big_Rock_Point_Nuclear_Power_Plant

³⁷ <https://www.nrc.gov/docs/ML1119/ML111950031.pdf>

³⁸ <https://www.nrc.gov/docs/ML1919/ML19192A086.pdf>;

³⁹ See Holtec's Expected Profit, below

NRC Regulations provide no guarantee

The NRC Staff's statements that the NRC has "the ability to take action on any actual or potential funding deficiencies" are wrong and ignore reality. NRC regulations say a *licensee* must make-up the balance of any shortfall (10 CFR 72.30(g)), but these regulations apply only to licensees, i.e., only to Holtec Pilgrim (whose only assets are Pilgrim, a lot of spent fuel, and the DTF) and Holtec Decommissioning International (that has essentially no assets). They do not apply to Holtec International, Holtec Power, Nuclear Asset Management Company, SNC-Lavalin or Comprehensive Decommissioning International.

The reality is that that if the DTF runs out of money no licensee, neither Holtec Pilgrim not HDI will have any assets or other ability to eliminate "any actual or potential funding deficiencies;" A essentially bankrupt licensee cannot "make-up" anything; and the NRC has no legal ability or power to require a non-licensee – such as Holtec International, Holtec Power, Nuclear Asset Management Company, SNC-Lavalin or Comprehensive Decommissioning International - to pay anything.

Costs the Commonwealth likely will have to pay

The Commonwealth and Pilgrim Watch Motions to Intervene, and subsequent filings by the Commonwealth and Pilgrim Watch to the NRC, show in detail that there are insufficient funds in the Decommissioning Trust Fund (DTF) to decommission Pilgrim. The motions also explain why no Holtec or Entergy entity will pay any shortfall.

The Commonwealth and its taxpayers probably will have to pay hundreds of millions of dollars - likely more than \$650 million, and potentially more than a billion - for which Pilgrim alone should be fully responsible.

Even if the NRC had not allowed Holtec to withdraw almost half of the DTF to pay non-decommissioning expenses, there are six categories of costs that the DTF clearly will be insufficient to cover, and that the Commonwealth will have to pay.⁴⁰ These include:

- a. \$113 million to \$212 million of inflation-increased decommissioning costs
- b. Potentially several hundred million dollars to remove hazardous materials and radiological contamination, in soil and ground water.
- c. At least \$85 million to \$102 million in additional project management and overhead costs resulting only from the to-date 2½ year delay in Holtec's work schedule. (Mass. Attorney General)

⁴⁰ Holtec is allowed to take spent fuel management costs out of the decommissioning trust fund. Holtec, like all licensees, can and will sue DOE for all of its spent fuel management costs. The suits will be based on DOE's breach of contract-not providing an offsite repository for spent fuel by 1998. Monies recovered are not required to be placed back into the decommissioning fund to reimburse for monies taken out of the fund for spent fuel management costs.

- d. \$150 million to \$450 million to build a facility to transfer spent fuel from one cask to another. (GAO)
- e. \$261.77 million to repackage canisters for shipment offsite (Alvarez)
- f. From \$380 million (ignoring inflation) to several billion dollars in spent fuel costs after 2062, based on NRC predicted inflation and the length of time that spent fuel likely will remain on site.

Each of these, and numerous other potential costs that Holtec's PSDAR does not consider and will also be left to the Commonwealth and its taxpayers, are discussed below.

1. Higher decommissioning costs resulting from inflation

Holtec based its decommissioning costs on the faulty assumption that decommissioning costs will not increase with inflation during the decommissioning period.

"The decommissioning costs presented in this report are reported in 2018 dollars. Escalation of future decommissioning costs over the remaining decommissioning project life-cycle are excluded." (PSDAR, p. 19; DCE, pp. 7, 18)

That assumption is flatly contradicted by both the NRC and history.

The NRC's Questions and Answers on Decommissioning Financial Assurance⁴¹ are clear: decommissioning costs will increase at a rate higher than the rate of inflation, and that over a period of only 20 years (40 years less than the 60 year period allowed for decommissioning) there will be 2.5 to 5.6 times increase in costs, i.e., *the annual increase in costs will be 5% to 9%*:

The NRC formulas represent the cost to decommission today, not in the future. *Due to rising costs, the future value of decommissioning will be much larger than the NRC formula calculated today.* For example, using the range of cost escalation rates based on NUREG - 1307, **the increase in cost over a 20-year license renewal period would range from 2.5 to 5.6 times today's estimated cost, not counting costs that are not included in the formula, such as soil contamination.** *The rates of increase in decommissioning cost are higher than general inflation.* (Emphasis added)

Callan Associates produces an annual analysis and report of decommissioning funds and costs.⁴² Its 2015 Nuclear Decommissioning Funding Study said "Total decommissioning cost estimates have risen 60% since 2008," and that "2014 decommissioning cost estimates rose approximately 11% from the previous year." The 2018 Study reported that decommissioning costs increased by about 80% (from \$55 billion to \$89 billion, an annual rate of about 5 percent) from 2008 and 2017. The trend continued in 2019: "cost estimates rose \$7.4 billion (8.4%) from a year earlier to over \$96 billion in 2018.

⁴¹ NRC Electronic Library, Adams, Accession Number ML1119/ML111950031

⁴² <https://www.callan.com/library>

Simply stated, the NRC says that decommissioning costs will increase, and Callan Associates says that they have increased, at an annual rate that is much greater than inflation. There is no reasonable basis for Holtec's "no inflation" cost estimates.

2. Costs to remove hazardous materials and radiological contamination- Holtec assumes the site is essentially clean.

The NRC's Decommissioning Rule, 10 C.F.R. §20.151 recognizes the importance of a site assessment and an evaluation of "the magnitude and extent of radiation levels; and the concentrations of residual activity." In the Federal Register notice establishing this rule, the NRC was quite clear that "To adequately assure that a decommissioning fund will cover the costs of decommissioning, the owner of a facility must have a reasonably accurate estimate of the extent to which residual radioactivity is present at the facility, particularly in the subsurface soil and groundwater," that "soil or ground-water contamination can increase decommissioning costs" and "increase decommissioning costs above the original estimate." 76 Federal Register 33514, 33517.

Holtec, however, admits that when it prepared its site restoration estimates *it did not know* what radiological and hazardous waste actually exist on Pilgrim's site.⁴³

Nonetheless, Holtec based its decommissioning and site restoration costs estimates on the baseless, and incorrect, assumption that there is "no significant contamination" on the Pilgrim site (DCE, p. 22). It compounded its error by included **only** "those costs associated with conventional dismantling, demolition, and removal from the site of structures and systems" (PSDAR, p 19) in its **estimated \$40 million site restoration cost**.

Pilgrim Watch and the Commonwealth know, and we suspect that Entergy and Holtec also know, that there is "significant contamination" on the Pilgrim site, and that site restoration will require far more.⁴⁴

Pilgrim opened with bad fuel and no off-gas treatment system. Later, it blew its filters prompting Mass Dept. Public Health to do a case-control study of adult leukemia, finding a four-fold increase and confirming the hypothesis that the closer you lived or worked at Pilgrim there would be an increase in leukemia.

Radionuclides, including for example tritium, manganese-54, cesium-137, Sr-90, I-131, cobalt-60, Plutonium, and neptunium have been found off-site, and also in the surface water, groundwater, and soils at Pilgrim at levels exceeding "background" levels. Monitoring wells placed onsite from 2007 forward show consistent levels of radiological contamination-

⁴³Revised Post-Shutdown Decommissioning Activities Report and Revised Site-Specific Decommissioning Cost Estimate for Pilgrim Nuclear Power Station NRC Electronic Library, ADAMS Accession No. ML18320A040, (Holtec PSDAR 8-11; DCE pg., 14)

⁴⁴ Pilgrim Watch Petition to Intervene & Request for Hearing, NRC Electronic Library, Adams, Accession Number ML19051A019; Commonwealth Petition to Intervene & Request for Hearing, NRC Electronic Library, Adams, Accession Number ML19051A114

contamination not yet removed. Hazardous waste was illegally buried onsite. See Pilgrim Watch Motion to Intervene, pp 36-46.

The Commonwealth's Motion to Intervene included a declaration from John M. Priest Jr, director of radiation control MDPH and a former Pilgrim employee. Mr. Priest said that:

9. Based on my site knowledge, contamination has previously been identified by the utilities in the soil in the vicinity of the condensate water storage tank, the reactor truck lock and radioactive waste building. Further, there were other releases into the environment associated with a former condenser tube refurbishment building east of the radioactive waste truck lock. Historically, contaminated soil from previous site remediation has been "stockpiled" on a small hill along the east protected area fence. DPH does not know whether these sites and others were captured as part of decommissioning records required by 10 C.F.R. § 50.75(g), communicated to Holtec and evaluated by Holtec in its decommissioning cost estimate. Based on my knowledge of this site and experience at other nuclear power plants, it is reasonable to assume based on this site's history that other contaminants will be identified once excavation and demolition begins.

10. Long-lived radionuclides are likely to be found in soils and groundwater far from the small excavation made to repair the leaks that likely allowed reactor condensate to enter into the site soils for many years. In addition, these same long-lived radionuclides are likely to be found in many other structures, systems, and components, which may also have unknowingly leaked over the decades into soils and the groundwater at the Pilgrim property

Experience at other decommissioned reactors showed significant cost increases from "unknown" contamination discovered only later. At Connecticut Yankee, for example, previously undiscovered strontium-90 contributed to the actual cost of decommissioning Connecticut Yankee being *double* what had been estimated. Connecticut ratepayers had to pay a \$480 million shortfall for cleanup of CT Yankee.⁴⁵ During the decommissioning of Maine Yankee, the licensee encountered pockets of highly contaminated groundwater dammed up by existing structures, leading to cost increases. The Yankee Rowe site in Massachusetts incurred significant cost increases during decommissioning when PCBs were discovered in paint covering the steel from the vapor container that housed the nuclear reactor, as well as in sheathing on underground cables. Other plants have also ended up costing much more than what was estimated for decommissioning- Diablo Canyon 1&2, San Onofre 2&3.⁴⁶

At this point in time, no one knows how much hazardous waste and radiological contamination must be removed from the Pilgrim site, or what the actual cost of removing it will be. However,

⁴⁵ Hartford Current, November 12, 2005 <http://www.courant.com/news/local/cynukemess.artnov12,0,6222764.story?col l=hc-headlines-home>

⁴⁶ See, e.g., NRC, SECY-13-0105, at Summary Table, available at <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2013/2013-0105scy.pdf>.

three things are clear – the site is contaminated, there is no money in the DTF to pay to remove it, what the costs will be, and unless these contaminants are properly removed they will end up in Cape Cod Bay and perhaps the Plymouth-Carver Aquifer underneath the site.

3. Spent fuel costs after 2062.

The spent fuel management costs projected in Holtec's PSDAR, DCE and LTA rest on at least three unexplained and unlikely assumptions: that DOE will remove all spent fuel from the Pilgrim site by 2062. (Holtec PSDAR, pgs., 23 and 58); that Holtec will never have to repair or replace any failed casks or pads, and that Holtec will not have to repackage spent nuclear fuel into new containers approved by DOE for transportation. None of these assumptions is justified.

Holtec's projected costs assume that "DOE will commence acceptance of PNPS's spent fuel in 2030 and ... the spent fuel [will] be fully removed the Pilgrim site in 2062" (DCE, p. 23) is based on DOE's January 2013 *Strategy for The Management and Disposal of Used Nuclear Fuel and High -Level Radioactive Waste*. ("DOE Strategy").⁴⁷ But the Holtec cost estimates ignore that the DOE Strategy is simply "a framework for moving toward a sustainable program to deploy an integrated system capable of transporting, storing, and disposing of used nuclear fuel" (DOE Strategy, p. 1). The strategy does not even try to guess by when an interim or geologic repository to which the spent fuel would be moved might actually exist.

The DOE Strategy itself says that it is nothing more than a "plan" or "goal" for which "legislation is needed in the near term" (DOE Strategy, pp.13-14) Seven years have now passed. There is no Congressional legislation or appropriation, and no plan has been implemented.

The NRC has been more realistic. Its 2014 Continued Storage Rule envisions onsite storage for 300 years;⁴⁸ and the casks and pad would need to be changed every 100 years.

Holtec estimated on-going spent fuel storage costs would be \$7.2 million per year in 2018 dollars. Even if one were to assume that there would be no greater-than-inflation increase in those costs and the fuel, if the spent fuel were to remain on-site for 100 years after Pilgrim shut down, the 57 additional years of spent fuel would add more than \$380 million to Holtec's estimated cost. The NRC's predicted 5% to 9% annual cost increases would add billions.

4. Cost of repackaging spent fuel canisters for shipment offsite

DOE 's Standard Contract under the Nuclear Waste Policy Act requires reactor operators to pay to repackage fuel into new DOE approved containers prior to transportation to an offsite storage facility or repository (Brewer Decl, pg.,8). Repackaging spent fuel so that it can be transported off-site will be expensive, but that cost has been ignored by Holtec.

⁴⁷ U.S. Department of Energy, *Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste*, January 2013.

<http://www.energy.gov/sites/prod/files/Strategy%20for%20the%20Management%20and%20Disposal%20of%20Used%20Nuclear%20Fuel%20and%20High%20Level%20Radioactive%20Waste.pdf>

⁴⁸ <https://www.nrc.gov/docs/ML1423/ML14238A326.pdf>

According to Task Order 12: Standardized Transportation, Aging, and Disposal Canister Feasibility Study, Option 3 (1 PWR/1 BWR/13.1/U) it will cost \$34,311,000,000 to repackage 140,000 MT; the per ton cost is \$245,078.00.⁴⁹ Dr. Alvarez says that repackaging at the Pilgrim site could add \$261,770,600 to the predisposal costs.⁵⁰

No repackaging costs are included in Holtec's estimates. And again, repackaging would be required no matter when the spent fuel is shipped, so it is not likely that the cost would be reimbursed by DOE.

5. Cost of a spent fuel transfer facility to repackage canisters

There are a number of circumstances in which Holtec will have to move spent fuel from one canister to another. One is when a canister has failed. Another is when spent fuel is moved into the canisters that will be stored at a long-term geological depository such as Yucca mountain.

Dr. Brewer's declaration filed with the Attorney General's Motion to Intervene says that the construction of a Dry Fuel Transfer Station needed to move spent fuel from one canister to another would cost between \$150 and \$450 million. This estimate assumes that Holtec will need one large centralized repackaging facility handling the entire projected SNF inventory. If Holtec or another reactor operator has to establish repackaging infrastructures at decommissioned or closed reactors, the repackaging becomes an even more expensive proposition.

The Holtec estimates do not include this cost. Since the need for a transfer facility would exist no matter when the spent fuel is shipped, it is not likely that the cost will be reimbursed by DOE.

6. Cost of repackaging spent fuel canisters for shipment offsite

DOE's Standard Contract under the Nuclear Waste Policy Act requires reactor operators to pay to repackage fuel into new DOE approved containers prior to transportation to an offsite storage facility or repository (Brewer Declaration, pg.,8). Repackaging spent fuel so that it can be transported off-site will be expensive, but that cost has been ignored by Holtec.

According to Task Order 12: Standardized Transportation, Aging, and Disposal Canister Feasibility Study, Option 3 (1 PWR/1 BWR/13.1/U) it will cost \$34,311,000,000 to repackage 140,000 MT;

⁴⁹ https://curie.ornl.gov/system/files/documents/not%20yet%20assigned/STAD_Canister_Feasibility_Study_AREVA_Final_1.pdf (p-5-2)

⁵⁰ Robert Alvarez Analysis For Pilgrim 2018, <https://ips-dc.org/ips-authors/Robert-Alvarez/>; 3 U.S. Government Accountability Office, GAO-10-48, Nuclear Waste Management: Key Attributes, Challenges, And Costs For The Yucca Mountain Repository And Two Potential Alternatives 55 (Nov. 2009), <https://www.gao.gov/assets/300/298028.pdf>.

the per ton cost is \$245,078.00.⁵¹ Dr. Alvarez says that repackaging at the Pilgrim site could add \$261,770,600 to the predisposal costs.⁵²

No repackaging costs are included in Holtec's estimates. And again, repackaging would be required no matter when the spent fuel is shipped, so it is not likely that the cost would be reimbursed by DOE.

7. Costs resulting from decommissioning delays – Time is Money

A slide presentation made by Holtec International ("Holtec" and Comprehensive Decommissioning International ("CDI") to the Pilgrim Nuclear Decommissioning Citizens Advisory Panel ("NDCAP") on November 14, 2019 shows that Holtec's planned decommissioning already has slipped at least 2-3 years, and has increased in duration. Both the delay and longer decommissioning period will further increase costs to decommission Pilgrim.

In a supplement to its Motion to Intervene the Massachusetts Attorney General said that delay to-date will add **\$85-\$102 million** to the project in management overhead alone compared to cost estimates given by Holtec in its PSDAR.

The time it will take to cleaning up previously known and unknown radiological and non-radiological contamination will additionally delay and lengthen the work schedule, further escalating costs. There inevitably will be other delays as there always are in large projects. Holtec is new to decommissioning; severe and more frequent storms are occurring.

8. Holtec's Decommissioning Cost Estimate (DCE) fails to consider costs likely to result from climate change impacts.

Based on current levels of greenhouse gas prediction, the UN Intergovernmental Panel on Climate Change (IPCC) 2018 Report⁵³ concluded that sea levels will rise more rapidly; severe storms will occur more frequently, coinciding with high tides and exceptional wave heights, that groundwater tables will rise, and that floods will be more severe.

The National Geographic (December 16, 2015) identified Pilgrim among the 13 nuclear reactors impacted by sea-level rise and predicted that, "if significant protective measures were not taken, these sites could be threatened."⁵⁴

⁵¹ https://curie.ornl.gov/system/files/documents/not%20yet%20assigned/STAD_Canister_Feasibility_Study_AREVA_Final_1.pdf (p-5-2)

⁵² Robert Alvarez Analysis For Pilgrim 2018, <https://ips-dc.org/ips-authors/Robert-Alvarez/>; 3 U.S. GOVERNMENT ACCOUNTABILITY OFFICE, GAO-10-48, NUCLEAR WASTE MANAGEMENT: KEY ATTRIBUTES, CHALLENGES, AND COSTS FOR THE YUCCA MOUNTAIN REPOSITORY AND TWO POTENTIAL ALTERNATIVES 55 (Nov. 2009), <https://www.gao.gov/assets/300/298028.pdf>.

⁵³ <https://research.un.org/en/climate-change/reports>

⁵⁴ <https://research.un.org/en/climate-change/reports>;

<http://news.nationalgeographic.com/energy/2015/12/151215-as-sea-levels-rise-are-coastal-nuclear-plants-ready/>

The numerous negative impacts resulting from climate change not considered by Holtec that would likely increase decommissioning costs include increased flooding and storm surge resulting from climate change likely to cause corrosion of underground piping, tanks and structures and subsequent leakage.

Corrosion and potential leakage of the Greater-than-Class-C waste and low-level waste containers located close to Cape Cod Bay. Radiological and hazardous waste contamination, if not cleaned up quickly, will be washed out into Cape Cod Bay unable to be retrieved.

Severe storms and flooding can result in loss of offsite power and potential damage to the diesel generators located by the bay. The spent fuel pool requires electricity to operate its safety systems. At Fukushima, extreme weather conditions at the site prevented workers to perform necessary mitigating actions. Severe storms and flooding could present conditions at Pilgrim so that workers could not perform their jobs.

Finally, climate change impacts on the site are likely to both decrease Holtec's capability to clean up and cause delay in work schedule; both will increase costs.

9. **Holtec's cost estimate assumptions ignore the cost of managing Low Level Radioactive Waste (LLRW)** In addition to spent fuel, Class A, B, C and Greater-than-Class C radioactive waste will be stored at Pilgrim. Decommissioning also will generate a huge quantity of LLRW.

The LLRW waste will remain on the Pilgrim site, like the high-level radioactive waste, until an offsite repository accepts Pilgrim's LLRW. Massachusetts does not belong to any compacts.

For Class B and C radioactive waste Holtec's PSDAR (at 13) says that "an import petition will be filed with the Texas Compact Commission to gain approval for disposal of out of compact waste at the Waste Control Specialists (WCS) facility in Texas." Acceptance is not guaranteed, and it may well be more expensive for Massachusetts than for compact members. Timely acceptance is not guaranteed to non-compact members.

Potential higher fees and prolonged onsite storage are not factored into Holtec's cost estimates. Huge amounts of Class A, B and C radioactive waste will result during the decommissioning process, and likely more of these dry cask storage containers will be needed.

10. Other Costs that the DTF will not be able to pay

Holtec's costs estimates ignore the costs of mitigating radiological accident(s).

Potential accidents include, fuel handling accidents unloading fuel from pool, canister drop in pool; spent fuel pool water loss, human error, terrorist attack; line of sight or air attack on dry casks that each contain ½ Cesium-137 released at Chernobyl; corrosion cask and radiological

leaks⁵⁵. A Spent fuel pool fire could result in contamination of 38,610 square miles and force the evacuation of millions.⁵⁶ An NRC study estimated a severe spent fuel pool accident would render an area larger than Massachusetts uninhabitable for decades and displace more than 4 million people⁵⁷.

Holtec ignores potential costs from fires in structures, systems and components containing radioactive and hazardous material. Fire in a building would result in increase in mixed waste adding to cost and also impact worker and potentially public health. Holtec's cost estimates should, but do not, include the cost of an adequate study to locating sites where potential masses of contaminated material susceptible to ignition might accumulate during decommissioning and the costs of forestalling a fire by removing or limiting heat, oxygen, and/or fuel. Holtec's cost estimates also should include costs for training and equipment for offsite fire personnel that are counted on in an emergency.

Holtec's Likely Profit

When Holtec purchased Pilgrim (likely for about \$1,000) it was given a DTF worth more than a billion dollars. According to Holtec's PSDAR and new financial report, decommissioning will cost more than a billion dollars, only a very, small percentage of the DTF will be left over.

The reality is that that the DTF likely will run out of money, and there will be nothing left over. Moreover, no licensee will have any assets or other ability to make-up any shortfall.; neither NRC nor the Commonwealth has the legal ability or power to require a non-licensee – such as Holtec International, Holtec Power, Nuclear Asset Management Company, SNC-Lavalin or Comprehensive Decommissioning International - to pay anything; and the cost to the Commonwealth likely will be hundreds-of-millions, if not more than a billion, dollars.

Nonetheless, Holtec may walk away with as much as \$800 million in “profit.”

How could this be true? The answer seems remarkably simple.

⁵⁵ Environmental Impacts of Storing Spent Fuel and High-Level Waste from Commercial Nuclear Reactors: A Critique of NRC's Nuclear Waste Confidence Decision and Environmental Impact Determination, Gordon Thompson, February 6, 2009; Comments on the US Nuclear Regulatory Commission's Draft Consequence Study of a Beyond Design Basis Earthquake Affecting Spent Fuel Pool for a US Mark 1 Boiling Water Reactor, Gordon Thompson, August 1, 2013, pg., 30

⁵⁶ Frank N. von Hippel, Michael Schoeppner, “Reducing the Danger from Fires in Spent Fuel Pools,” *Science & Global Security* 24, no.3 (2016): 141-173 <http://scienceandglobalsecurity.org/archive/sgs24vonhippel.pdf>; Richard Stone, “Spent fuel fire on U.S. soil could dwarf impact of Fukushima,” *Science*, May 24, 2016. (NRC variable at: <http://www.sciencemag.org/news/2016/05/spent-fuel-fire-us-soil-could-dwarf-impact-fukushima>

⁵⁷ Consequence Study of a Beyond Design-Basis Earthquake Affecting the Spent Fuel Pool for A U.S. Mark I Boiling Water Reactor (October 2013) at 232 (Table 62) and 162 (table 33), Adams Accession NO ML13256A342)

- a. A Holtec representative told Jim Lampert that Holtec had included its expected profit in its estimated decommissioning costs. Our understanding is that, for a project of this magnitude that will extend over a number of years, a company would expect a profit in the range of not less than 25% to 35%, i.e., a profit of between about \$250,000 and \$350,000 on a billion dollar job.
- b. Many years ago, DOE entered into a contract with the nuclear industry in which DOE agrees to remove spent nuclear fuel from nuclear reactor sites by 1998. It has not done so. As a result, the owners of nuclear power plants have regularly sued DOE to recover their spent fuel costs, and they have regularly won.
- c. In filings with the NRC, Holtec has said that it expects to spend over \$500 million of the approximately \$1 billion in the DTF for spent fuel management, and that it expects to recover these costs from DOE.
- d. Holtec has consistently refused to agree to put the money it will recover from DOE back into the DTF, even though money from the DTF was used to pay the very same spent fuel management costs that DOE would have reimbursed. No NRC regulation requires that money recovered from the DOE be used for decommissioning. It seems clear that Holtec plans to keep this \$500 million as additional profit.
- e. Total likely Holtec profit: \$250-300 million profit built into Holtec's estimated costs of decommissioning, and another \$500 million in profit from DOE.**



Settlement Agreement Between the Commonwealth of Massachusetts and Holtec Pilgrim LLC and Holtec Decommissioning International LLC, June 16, 2020. Are its Financial Assurance Requirements Sufficient?

The Settlement Agreement requires Holtec Pilgrim to keep at least **\$193.3 million** in the Trust Fund until NRC approves HDI's application for partial site release (releasing all except the ISFSI) of the property for unrestricted use meeting NRC's regulation 10 C.F.R. § 50.83.⁵⁸ After partial site release, Holtec Pilgrim must maintain **\$38.4 million** in the DTF until the spent fuel is removed from the site. (Settlement, 3(a)(1))

If the amount in the DTF falls below those levels, the Settlement Agreement requires Holtec Pilgrim and HDI to "use money equivalent to that which it recovers through litigation or settlement from DOE." If what Holtec Pilgrim and HDI have recovered from DOE is insufficient to make-up any shortfall, the Settlement requires them to "utilize funds from an alternative source or other financial assurances of equivalent value in the form of a parent guarantee, letter of credit, or other mutually acceptable instrument."

General Comments:

- a. Massachusetts Legislation: S.1992/S.1948 An Act to Establish Funding to Provide Postclosure activities.** Both bills require that the Commonwealth establish a Postclosure Trust Fund to ensure that there will be money available for a complete and timely decommissioning of the Pilgrim, and of any future commercial reactor in the Commonwealth. Each would require: any commercial nuclear power station that on or after January 1, 2019, used nuclear fuel to generate electric power pay an annual \$25,000,000 post-closure funding fee to be placed in a Postclosure Trust Fund in the office of the State Treasurer. After the site has been completely decommissioned (as defined in the bills⁵⁹), any excess in the fund will be returned to the plant owner, with interest.
- b.** The fundamental problem with the Financial Assurance Requirements of the Settlement Agreement is that only HDI and Holtec Pilgrim are required to put any

⁵⁸ 20.1402 Radiological criteria for unrestricted use: A site will be considered acceptable for unrestricted use if the residual radioactivity that is distinguishable from background radiation results in a TEDE to an average member of the critical group that does not exceed **25 mrem** (0.25 mSv) per year, including that from groundwater sources of drinking water, and the residual radioactivity has been reduced to levels that are as low as reasonably achievable (ALARA). Determination of the levels which are ALARA must take into account consideration of any detriments, such as deaths from transportation accidents, expected to potentially result from decontamination and waste disposal. <https://www.nrc.gov/reading-rm/doc-collections/cfr/part020/part020-1402.html>

⁵⁹ Decommissioning", shall mean closing and decontaminating a nuclear power station and nuclear power site, including dismantling the facility, removing all nuclear fuel, coolant and nuclear waste from the site, releasing the site for unrestricted use, and terminating the license.

money into any fund, and that they are the Holtec entities that are most likely to run out of money. If there is not enough money in the DTF (that is essentially their only asset), neither will have available money to deposit into any trust fund.

- c. If Holtec Pilgrim and HDI are essentially out-of-money, it seems unlikely that either would be able to obtain “funds from an alternative source or other financial assurances of equivalent value in the form of a parent guarantee, letter of credit, or other mutually acceptable instrument.” Holtec International has consistently refused to provide a parental guarantee.

Comments on Partial Site Release- \$193.3 Million (Paragraph 3-a)

- a. We do not know where \$193.3 million came from.
- b. As a practical matter, this provision of the Agreement is unlikely ever to come into play. Holtec initially assumed that partial site release would take place in 2025, and its PSDAR said \$225.5 million would remain in the DTF at the end of 2025. Its 3/31/2020 NRC filing says that partial site release will be in 2027, and that the DTF balance at the end of 2027 will be \$257 million. Both estimates are *significantly more than the \$193.3 million trigger*.
- c. *Unless* Holtec spends far more than it expects to on site restoration before meeting the NRC requirements for partial site release, it seems likely that the amount in the DTF will not fall below \$193.3 million prior to partial site release.
- d. It also seems unlikely that any money will be recovered from DOE before partial site release. Any suit against DOE to recover costs probably will not even be filed until five years after the license transfer took effect.
- e. A parent guarantee is unlikely. The corporate structure was set up to shield the parent. Who would give a letter of credit or issue a bond to an essentially bankrupt LLC?

Comments on After Partial Site Release- \$38.4 Million (Paragraph 3-b)

- a. We have no idea where \$38.4 million came from. It approximates Holtec’s estimated cost of storing spent nuclear fuel for five (5) years.
- b. The amount needed in the DTF likely will be far more than \$38.4 million.:
 - (i) Holtec assumes that DOE will move all spent fuel offsite by the end of 2062. This is extremely unlikely. Far more likely is that Pilgrim’s spent nuclear fuel will remain on site for many years after that. Onsite spent fuel storage until 2073, only ten years longer than Holtec projects, would add at least \$70 million in costs.

- (ii) The potential costs of repacking the spent nuclear fuel, either for off-site shipment or because of canister failure, is hundreds of millions of dollars.
- c. Same reasons as described above with respect to dim prospects of recovering money into the decommissioning fund from the licensee's DOE suits, parent guarantees and securing bonds.

\$30 million Insurance (Paragraph 4) - names the Commonwealth as an additional insured party, and provides coverage for "Contractor's Pollution Liability" (*non-radiological contamination* exacerbated by certain decommissioning and Site restoration activities) and "Pollution Legal Liability" (for *previously unknown non-radiological conditions* identified at the Pilgrim Site after August 26, 2019).

Comment:

This insurance does not cover (i) any radiological contamination or (ii) any known non-radiological contamination that was not "exacerbated by certain decommissioning and Site restoration activities."

Subcontractors (contract not less 25 M) - Post Performance Bonds or equivalent performance assurance - not less 25% contract value (Par. 5)

Comments

- a. This bond requirement explicitly does not apply "to Holtec's existing contract for Pilgrim reactor segmentation with GE-Hitachi Nuclear Energy and Holtec's contract for Pilgrim radioactive waste management (including disposal and transportation)." Reactor segmentation and radioactive waste management are the two biggest and most expensive components of decommissioning.
- b. CDI also is required only to require "its subcontractors ... to post performance bonds...." CDI itself is not required to do so
- c. We have found nothing in this agreement requiring a performance bond for reactor segmentation or radioactive waste management.

Financial Reports to State (Paragraphs 6, 8)

Para. 6 requires Holtec Pilgrim/HDI to "provide copies to the Commonwealth, EEA, DEP, DPH, and MEMA of Holtec's annual decommissioning and spent nuclear fuel management funding assurance reports filed with the NRC pursuant to 10 C.F.R. § 50.75(f)(1) and 10 C.F.R. § 50.82(a)(8)(v) (NRC Annual Trust Fund Status Reports).

Comments

- a. These reports to the NRC contain very little information, essentially only current decommissioning cost estimates and the current balance in the decommissioning trust fund
- b. Nothing in the Settlement Agreement gives the Commonwealth the right or ability to audit what decommissioning work has been done, expenditures from the decommissioning trust fund for the various aspects of the work or expected future expenses.

Para. 8 says “Subject to the confidentiality terms in Paragraph 32,⁶⁰ no later than the last business day of each month, Holtec shall provide to the Commonwealth Holtec’s monthly project status reports, which shall include safety record, status of major project activities (e.g., reactor vessel segmentation, building demolition, and spent nuclear fuel loading), project schedule, project budget (including comparison of budgeted costs against actual costs), staffing, waste management, and regulatory assurance and compliance.

Comments

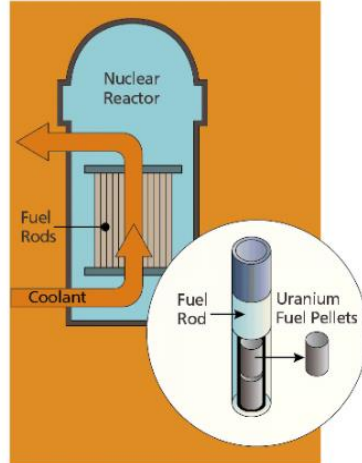
- a. Note that these are nothing more than “monthly project status reports.” Like the annual report to the NRC, they are very unlikely to provide any meaningful information.
- b. We expect Holtec to take advantage of Para. 32 and ensure that even the limited information these status reports might contain will be hidden from the public.

⁶⁰ 32. Confidentiality. To the extent that Holtec determines that the information it must submit to the Commonwealth, DEP, DPH, EEA, or MEMA pursuant to this Agreement constitutes a Holtec trade secret or confidential business information or other information that is exempt from disclosure under the Massachusetts Public Records Act, Mass. Gen. Laws c. 66, § 10, Mass. Gen. Laws c. 4, § 7(26)(a-q), Holtec shall designate the information as such and shall provide a redacted version for public disclosure, unless redaction would render the document meaningless.

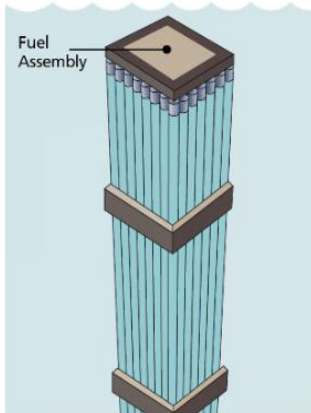
SPENT NUCLEAR FUEL

Spent Fuel Generation and Storage after Use

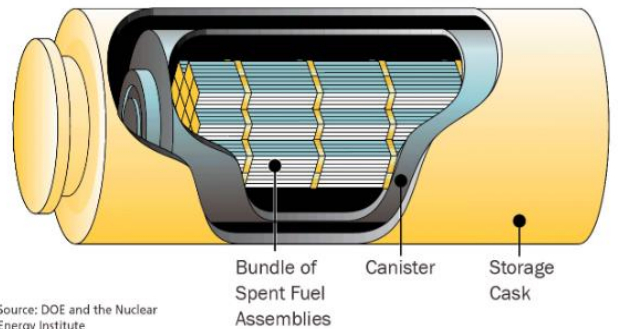
1 A nuclear reactor is powered by enriched uranium-235 fuel. Fission (splitting of atoms) generates heat, which produces steam that turns turbines to produce electricity. A reactor rated at several hundred megawatts may contain 100 or more tons of fuel in the form of bullet-sized pellets loaded into long metal rods that are bundled together into fuel assemblies. Pressurized-water reactors (PWRs) contain between 150 and 200 fuel assemblies. Boiling-water reactors (BWRs) contain between 370 and 800 fuel assemblies.



3 Commercial light-water nuclear reactors store spent radioactive fuel in a steel-lined, seismically designed concrete pool under about 40 feet (12.2 meters) of water that provides shielding from radiation. Water pumps supply continuously flowing water to cool the spent fuel. Extra water for the pool is provided by other pumps that can be powered from an onsite emergency diesel generator. Support features, such as water-level monitors and radiation detectors, are also in the pool. Spent fuel is stored in the pool until it can be transferred to dry casks onsite (as shown in Figure 42) or transported offsite to a high-level radioactive waste disposal site.



2 After 5–6 years, spent fuel assemblies—typically 14 feet (4.3 meters) long and containing nearly 200 fuel rods for PWRs and 80–100 fuel rods for BWRs—are removed from the reactor and allowed to cool in storage pools for a few years. At this point, the 900-pound (409-kilogram) assemblies contain only about one-fifth the original amount of uranium-235.



Source: DOE and the Nuclear Energy Institute

There are about 4,100 assemblies of spent nuclear fuel at Pilgrim; all of the nuclear fuel that Pilgrim has used since it started generating electricity in 1972. Each assembly contains thousands of curies of radioactive cesium and strontium.⁶²

As of May of 2020, about 2,200 assemblies are being stored in Pilgrim’s spent fuel pool.

Another approximately 1,900 assemblies already have been, or in the process of being, moved into 28 dry casks on an outside concrete pad adjacent Pilgrim’s reactor building.

⁶¹ <https://www.nrc.gov/images/waste/spent-fuel-storage/generation-storage.gif>

⁶² https://en.wikipedia.org/wiki/Intermediate-level_nuclear_waste

Eventually, all of the spent fuel assemblies will be stored in a total of 61 casks. All of the casks, including those now on the pad near the reactor building, will be located in a new Independent Spent Fuel Storage Installation (ISFSI) that is farther from the reactor building and Plymouth Bay, and about 75 feet above mean sea level.

Spent nuclear fuel in the spent fuel pool presents major potential safety problems. Dry cask storage is safer, but it has its own risks. There are also risks involved in moving spent fuel from the pool into a dry cask canister, transporting the cask from the reactor to the ISFSI, and long-term storage in the ISFSI.

Perhaps the most important thing to remember about spent nuclear fuel is that it will remain dangerous for thousands of years.



Pilgrim's Spent Fuel Pool - Safety Issues

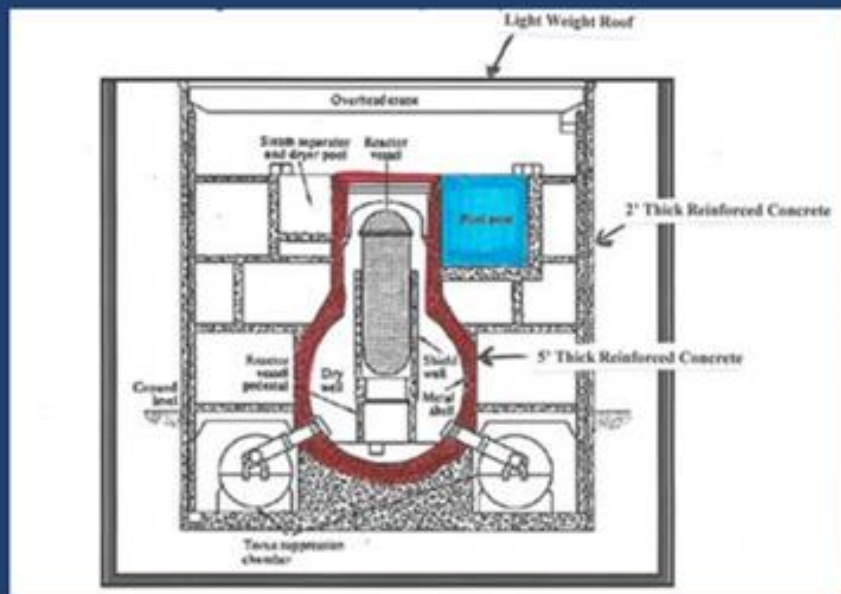
The safety issues with Pilgrim's spent fuel pool include: its location; crowded, containing far more spent fuel assemblies in the pool than it was designed to hold; failing panels intended to protect against overheating; an earthquake risk that is greater than that for which the pool was designed; security; and, most important, the risk of fire.

What's the Problem with Pilgrim's Spent Fuel Pool?

- ▶ **Location:** Pilgrim's pool is located in the upper floor of the reactor. It is outside primary containment with a thin and vulnerable roof overhead.
- ▶ **Crowded:** Pilgrim's pool was designed to hold 880 used fuel assemblies; it now holds over 2,000. Pilgrim's pool is licensed for a maximum capacity of 3,859 assemblies.
- ▶ **Boraflex panels** were added between Pilgrim's pool assemblies to protect against overheating. – Entergy said about 900 were degrading (April 2017)
- ▶ **Earthquake Risk:** Greater than previously understood; and greater than analysis on pool's safety. In May 2014, NRC published an updated ground motion response spectra for Pilgrim. The gap between the previously understood seismic risk and the updated seismic risk was larger at Pilgrim than at any other nuclear power plant in the country. (NRC Commissioner Baran, 2019)
- ▶ **Security:** Pilgrim's spent fuel pool located outside primary containment, with a thin roof overhead, is a vulnerable target from the air, land and water.
- ▶ **Risk of Fire:** If the pool loses water simply to the top of the assemblies, a pool fire can occur, releasing radiation. Water loss can occur, for example, from acts of malice, technological issues, and/or human error, Wolf Creek NPS. Pilgrim's supplemental water plan appears to be designed by Rube Goldberg-unlikely to work. (Union Concerned Scientists, Feb 9, 2012)

Location: As shown below, Pilgrim's spent fuel pool (colored blue below) is located in the upper floor of the reactor building.

Pilgrim's Spent Fuel Pool- Location



It is outside the reactor's concrete containment, outlined in red above. The thin overhead roof was designed to blow up and off in the event of a reactor accident hopefully to disperse radiation high in the atmosphere; it was not designed to protect from, for example, a small plane or other attack from above.

Crowded: The picture below shows a typical spent fuel pool, similar to Pilgrim's.



The assemblies of spent nuclear fuel are arranged in a grid, with the top of the grid below the surface of the water filling the pool. Originally, NRC rules required plant owners to maintain empty spaces (580 in the case of Pilgrim) to allow for a full core offload, but this requirement was eliminated.⁶³ Pilgrim refueled every two years. Every time it refueled, between about 150 and 200 spent fuel assemblies were moved from the reactor core into the spent fuel pool.

Because President Carter banned reprocessing commercial spent nuclear fuel in 1997, and also because there is no offsite national repository to which commercial spent nuclear fuel can be sent, more and more assemblies were stored in the spent fuel pool, for longer periods of time. In June of 1994, the NRC gave Pilgrim approval to store 3,859 assemblies in the then 20+ years old spent fuel pool. As part of its 2015 and 2017 refueling, Pilgrim moved 544 assemblies from the pool into eight dry casks (68 assemblies per cask) in its new Interim Spent Fuel Storage Facility (ISFSI). As of June 2019, there were 2,958 spent fuel assemblies in the spent fuel pool; 38 dry casks loaded 700' from the shore.

Boraflex Panels: Because the pool contains far more assemblies than the number for which it was originally designed, they were packed in a tight framed configuration with much less spacing between adjacent assemblies. Pilgrim added Boraflex panels between the assemblies to help prevent overheating and criticality; but some of the panels were deteriorating.⁶⁴ 900 were

⁶³ NUREG-0575 Vol. 1 - <http://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML022550127>

⁶⁴ <http://www.capecodtimes.com/news/20170517/more-violations-found-at-pilgrim>

degraded, (04/17). This tight packing places us at risk of an uncontrolled fire, a fire that likely cannot be extinguished. A fire can occur if the coolant water drops to the top of the assemblies as the result of an act of malice, human or mechanical error, or a cask drop in the pool during transfer to dry cask storage.^{65]}

Security: Pilgrim's spent fuel pool located outside primary containment, with a thin roof overhead, is a vulnerable target from the air, land and water.⁶⁶

Holtec has admitted on several occasions the vulnerability of the pool. For example in its April 2, 2020 (page 3) *Physical Security Plan Revision and License Amendment Request to Incorporate Additional Independent Spent Fuel Storage Installation* it said, "Due to the significant reduction in site risk resulting from the removal of spent fuel from the spent fuel pool to dry cask storage on the new ISFSI II pad, HDI requests NRC approval of the License Amendment Request by February 2, 2021."⁶⁷

Aircraft Attack: The pool is vulnerable from an air attack from a large or smaller, general-aviation aircraft laden with explosive material or simply a full load of fuel. Pilgrim's spent fuel pool is especially vulnerable. The roof over the pool is light- weight. It was designed to give in a reactor core accident so as to allow the radioactive plume to extend upwards into higher elevations. It is easily penetrable. Pilgrim's outer wall is approximately 2' reinforced concrete and the wall around the spent fuel pool is 5' thick. Attack by air or land with today's readily available sophisticated weapons could penetrate the walls. Dry cask, lined up and put in the open, are easily vulnerable also.

Drones: Drones pose a number of security concerns. The concern is not small. Payload drones could deliver explosives to attackers onsite. But, the main concern is that drones could enhance tactical advantage. For example, drones could distract the security guard force during a ground attack, slowing their response or causing them to be mispositioned to the advantage of the attackers; and drones could target the security cameras, motion sensors, etc. to mask ground attackers. The timelines for security force personnel to deploy and prevent attackers from successfully sabotaging key equipment are short. Anything that prevents timely and proper response by the guard force could be a problem.

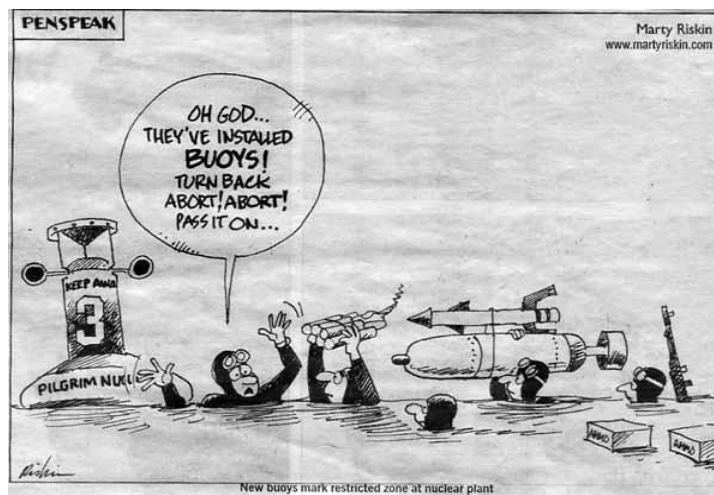
⁶⁵ The Massachusetts Attorney General's Request for a Hearing and Petition for Leave to Intervene With respect to Entergy Nuclear Operations Inc.'s Application for Renewal of the Pilgrim Nuclear Power Plants Operating License and Petition for Backfit Order Requiring New Design features to Protect Against Spent Fuel Pool Accidents, Docket No. 50-293, May 26, 2006 includes a Report to The Massachusetts Attorney General On The Vulnerability of Pilgrim's Spent Fuel Pool- Risks and Risk-Reducing Options Associated with Pool Storage of Spent Nuclear Fuel at the Pilgrim and Vermont Yankee Nuclear Power Plants, Gordon Thompson, May 25, 2006

⁶⁶ Massachusetts Attorney General, Op. Cit.

⁶⁷ Pilgrim Nuclear Power Station, Physical Security Plan Revision and License Amendment Request to Incorporate Additional Independent Spent Fuel Storage Installation. April 2, 2020, <https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20141L057>

Water-Based Attack: Pilgrim is on Cape Cod Bay with an extensive shoreline. During the summer months, there is considerable pleasure boat traffic crisscrossing in front of the reactor site. *Pilgrim was one of seven nuclear plants identified as vulnerable to a ship-borne attack*, in the 2013 Pentagon-contracted study “Protecting U.S. Nuclear Facilities from Terrorist Attack: Re-assessing the Current ‘Design Basis Threat’ Approach,” referenced above.

There is a 500-yard “exclusion zone,” simply marked by buoys – the equivalent of “no-trespassing signs.” It is not impenetrable and does not appear to be patrolled most of the time.



The Coast Guard patrols; but the Coast Guard’s resources are limited. Once the patrol leaves the site, a terrorist can strike. The “exclusion” zone was breached many times during operations—sunbathers, fishermen, kayakers, and a large Norwegian sailboat anchored inside the exclusion zone overnight, with its lights on. Entergy called the Harbormaster but not until the following morning.⁶⁸

Land-based Attack: Pilgrim has armed security guards and detection equipment such as security cameras. But Pilgrim was exempted from implementing cyber security measures meaning that the security guards communication equipment and security cameras could be vulnerable to hacking.

Loss of Electric Power to Operate Safety Systems Needed for Pool: Safety systems depend on off-site power (or on onsite-back-up systems if needed) for the electric power needed to cool, maintain or makeup water in the spent fuel pool. Neither offsite nor onsite electric power is assured. The spent fuel pool should, but does not, have its own backup power. Post shutdown, Pilgrim made some changes that tied one of the spent fuel pool pumps to connect to back-up power. It has the ability to power the systems needed for the pool from one of the Emergency Diesel Generators, as well as from what is called the Station Blackout Diesel generator. If Pilgrim loses off site power, it has




⁶⁸ And while the children were asleep... Special welcome for the Magnus, Sailboat detained, FBI called, after anchoring off Pilgrim Station, July 13, 2011, Frank Mand, Wicked Local Plymouth

the ability to continue to cool the pool from two different back-up, stand-alone power sources, assuming they remain operable.

Pool Instrumentation: Currently there is no instrumentation in the pool to measure both water level and temperature. The NRC Post Fukushima Order (EA-12-051, March 12, 2012) required pool instrumentation to measure only water level, not temperature, and gave licensees until two refueling cycles after submittal of the integrated plan or by December 31, 2016 – whichever comes first- to implement the order.⁶⁹

Cask Drop During Transfer in the pool to dry cask: Each cask inside the pool weighs 40 tons. If a cask is dropped in the pool and the pool floor is breached, pool water could drop below the tops of the assemblies leading to a pool fire. Also, there are many safety-related components located on the floors below the spent fuel pool which could be disabled that could simultaneously initiate an accident and disable accident mitigation equipment.

CONSEQUENCES OF A SPENT FUEL POOL FIRE

-  2016 Princeton Study: Major Spent Fuel Pool fire could contaminate over 38,000 square miles of land - almost four times the area of Massachusetts - and force millions to evacuate.
2013 NRC Study: A pool fire could displace > 4 million people.
-  2006 Mass Attorney General Pilgrim NPS Study: \$488 Billion dollars, 24,000 cancers, land uninhabitable for hundreds of miles downwind.
-  These risks will be reduced by transferring all the spent fuel from the pool to dry casks as soon as possible.

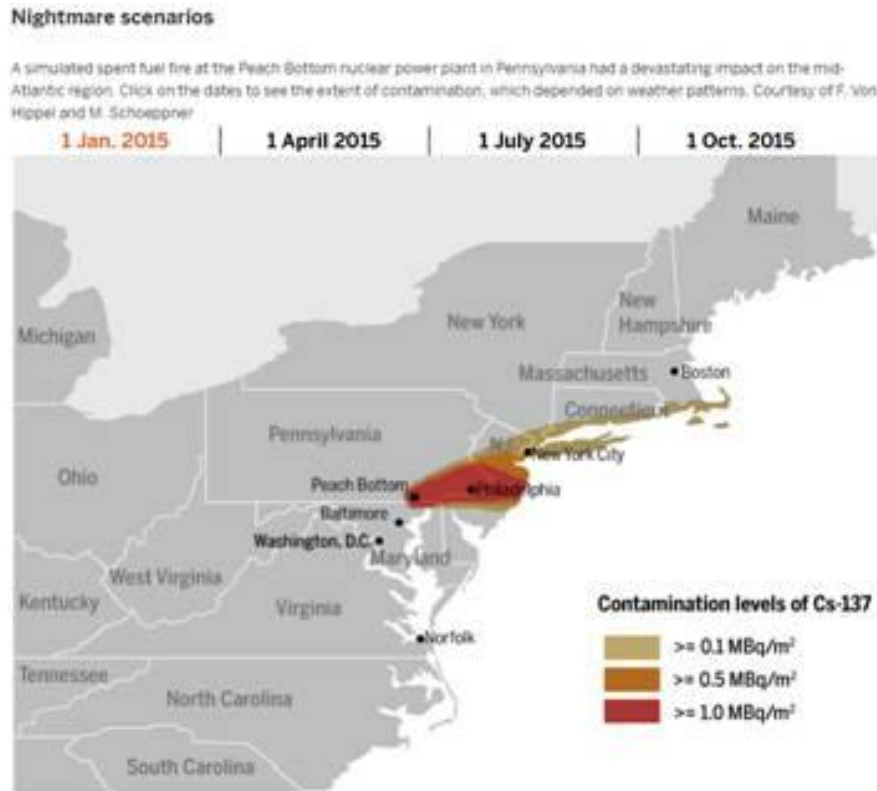
70

⁶⁹ <http://www.nrc.gov/reactors/operating/ops-experience/japan-dashboard/spent-fuel.html>

⁷⁰ The Massachusetts Attorney General's Request for a Hearing and Petition for Leave to Intervene With respect to Entergy Nuclear Operations Inc.'s Application for Renewal of the Pilgrim Nuclear Power Plants Operating License and Petition for Backfit Order Requiring New Design features to Protect Against Spent Fuel Pool Accidents, Docket No. 50-293, May 26, 2006 includes a Report to The Massachusetts Attorney General On The Potential Consequences Of A Spent Fuel Pool Fire At The Pilgrim Or Vermont Yankee Nuclear Plant, Jan Beyea, PhD., May 25, 2006 (NRC Electronic Hearing Docket, Pilgrim 50-293-LR, 2—6 pleadings, MAAGO 05/26 (ML061640065) & Beyea (ML061640329). Consequence Study Of A Beyond Design-Basis Earthquake Affecting The Spent Fuel Pool For A U.S. Mark I Boiling Water Reactor (October 2013) at 232 (Table 62) and 162 (table 33), Adams Accession NO ML13256A342). Frank N. von Hippel, Michael Schoeppner, "Reducing the Danger from Fires in Spent Fuel Pools," Science & Global Security 24, no.3 (2016): 141-173. <http://scienceandglobalsecurity.org/archive/>

Much of the damage from a pool fire would be caused by the release of Cesium-137.

The Princeton research team plotted the geographical extent of the “nightmare scenario” of a spent fuel pool fire at Peach Bottom NPS in Pennsylvania, like Pilgrim. For Pilgrim, move the cloud about 300 miles to the northeast, and imagine how much of Massachusetts would be covered if the wind happened to be onshore.



The Massachusetts Attorney General’s 2006 Analysis prepared and submitted to the NRC in connection with Pilgrim’s application to extend its operating license from 2012 to 2032, concluded that the offsite consequences in the event of water loss and a pool fire could be as much as \$488 Billion dollars, 24,000 cancers and contamination hundreds of miles downwind.^{71]}

[sgs24vonhippel.pdf](#); Richard Stone, “Spent fuel fire on U.S. soil could dwarf impact of Fukushima,” *Science*, May 24, 2016. (<http://www.sciencemag.org/news/2016/05/spent-fuel-fire-us-soil-could-dwarf-impact-fukushima>)

⁷¹ The Massachusetts Attorney General’s Request for a Hearing and Petition for Leave to Intervene With respect to Entergy Nuclear Operations Inc.’s Application for Renewal of the Pilgrim Nuclear Power Plants Operating License and Petition for Backfit Order Requiring New Design features to Protect Against Spent Fuel Pool Accidents, Docket No.

The NRC also did an analysis, *NRC's Consequence Study Of A Beyond Design-Basis Earthquake Affecting The Spent Fuel Pool For a U.S. Mark I Boiling Water Reactor (October 2013)*^[72] that looked at spent fuel storage at Peach Bottom, a reactor in Pennsylvania like Pilgrim. It showed that if even a small fraction of the inventory of a Peach Bottom reactor pool were released to the environment in a severe spent fuel pool accident, an average area of 9,400.00 square miles (Massachusetts = 6,692.824 square miles) would be rendered uninhabitable for decades, displacing as many as 4.1 million people (MA population=6,692,824).

Fukushima



The reactors at Fukushima Daiichi are identical to Pilgrim. The only significant difference is that Fukushima's spent fuel pools were less crowded because its operators, unlike Pilgrim's, had constructed a large spent fuel storage pool outside the reactor buildings and moved many of the spent fuel assemblies into it.

50-293, May 26, 2006 includes a Report to The Massachusetts Attorney General On The Potential Consequences Of A Spent Fuel Pool Fire At The Pilgrim Or Vermont Yankee Nuclear Plant, Jan Beyea, PhD., May 25, 2006 (NRC Electronic Hearing Docket, Pilgrim 50-293-LR, 2—6 pleadings, MAAGO 05/26 (ML061640065) & Beyea (ML061640329)

^[6] Consequence Study of a Beyond Design-Basis Earthquake Affecting the Spent Fuel Pool for A U.S. Mark I Boiling Water Reactor (October 2013) at 232 (Table 62) and 162 (table 33), Adams Accession NO ML13256A342)

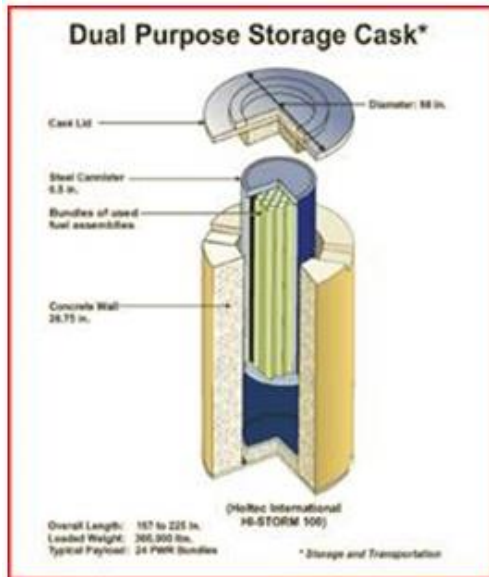
⁷² Consequence Study Of A Beyond Design-Basis Earthquake Affecting the Spent Fuel Pool for A U.S. Mark I Boiling Water Reactor (October 2013) at 232 (Table 62) and 162 (table 33), Adams Accession NO ML13256A342)

The picture above shows the reactor building of Fukushima Daiichi, Unit after the explosion inside. To prevent the fuel assemblies in the pool inside the reactor building, hoses were used to pump millions of gallons of water into the reactor building and pool. This water prevented a spent fuel fire, but it became contaminated and most of it leaked into the ocean. In addition there are some 240,000,000 more gallons of contaminated water now being stored on site, and it will likely be released into the ocean also.

Naoto Kan was the Prime Minister of Japan when the Fukushima accident occurred. He summarized the danger of spent fuel storage in a PBS documentary, early 2017. After being informed about the consequences if the spent fuel in Fukushima Unit 4 pool had caught fire, he said “[W]e would have to evacuate 50 million people. It would have been like losing a major war... I feared decades of upheaval would follow and would mean the end of the State of Japan.” He called for the phase out of nuclear power.⁷³

Fearing a spent fuel pool disaster and widespread deadly radiation, the United States Government initially advised US citizens in Japan to evacuate 50-miles outside of the site.

Pilgrim’s Dry Cask Storage



Casks: Entergy is using Holtec Hi-Storm 100, Version B, MPC-68 casks to eventually hold and store 61 dry casks filled with highly radioactive spent fuel assemblies. Additional casks are likely to store Greater-Than-Class-C radioactive waste that must go to a deep geological repository too.

⁷³ *Fukushima - The Story of a Nuclear Disaster*, Lochbaum, Lyman, Strenahan, Union Concerned Scientists, New Press, 2014.

The cask system is comprised of three primary components: MPC-68, HI-TRAC 100 D, and HI-STORM 100S. The MPC-68 is a metal canister that has a storage capacity of 68 BWR spent fuel assemblies.

The HI-TRAC (transfer cask) is a metal transfer cask that provides a means to lift and handle the canister as well as providing radiological shielding of the spent fuel assemblies.

The HI-STORM 100-S Version B storage overpack is a stainless steel-encased concrete storage cask that provides physical protection and radiological shielding for the metal canister when in storage.

The storage cask is vented for natural convection to dissipate the spent fuel decay heat. The casks are stored in a vertical position outdoors on a storage pad.⁷⁴

Each loaded cask inside the pool weighs **40 tons**, the equivalent of about 7 adult male African elephants. The casks will be placed on a concrete storage pad 52' X 238.5' located about 100 yards from the shore at 25 MSL. Each cask, with its overpack, weighs about **200 tons when placed on the outside pad**. The pad is not enclosed or covered in any way.

Pilgrim prior to closure May 31, 2019 had seventeen (17) loaded Holtec System 100 Multi Purpose Canisters (MPCs) containing 1,156 fuel assemblies. A total of 4,114 spent fuel assemblies will be required to be stored at Pilgrim Station. The entire dry fuel storage campaign is expected to require 61 casks. A new ISFSI pad is being built uphill at 75 MSL and 362 feet from a public road-Rocky Hill Road. Transfer to the new pad will be in 2021.

The casks will be onsite for a long-time. The NRC's Continued Storage final rule and generic environmental impact statement claimed that the spent fuel assemblies may be safely kept in dry casks onsite for 300 years or more , assuming that the dry cask pad and casks are changed every 100 years

Transfer of Spent Fuel From Pool To Dry Casks

The following links show the transfer process. Although Pilgrim uses a different cask and stores the casks vertically on the pad, the process is essentially the same as shown on the videos:

- <http://www.youtube.com/watch?v=9eFxPOVFdt0> - NUHOMS Used Nuclear Fuel Loading
- http://www.youtube.com/watch?v=mLVWNgggfu&feature=player_embedded
- <http://www.muzikkitabi.com/Video/VIDEOIDrh6FeQWuhCs/Dry-Cask-Storage-For-Spent-Fuel-At-Nuclear-Energy-Plants>

Pilgrim's Preparation for Transfer: Pilgrim applied to the NRC for a license amendment in order to begin the transfer process.⁷⁵ Prior to transfer, the pool was licensed only for transferring

⁷⁴ Entergy Letter No. 2.13.042, pg., 3 (NRC Electronic Library, ADAMS, Accession Number ML13346A026)

⁷⁵ Docket ID NRC-2014-0202, 56608 Federal Register / Vol. 79, No. 183 / Monday, September 22, 2014 / Notices

assemblies that themselves weigh about 2,000 lbs; but a loaded cask even when in the pool weighs 40 tons. Pilgrim's license required an energy absorbing pad in the floor of the pool to protect it from a drop. Entergy removed the pad prior to asking for a license amendment. The application justified Pilgrim's readiness for the transfer operation by installing the various changes: upgrading the crane to single failure proof; removing the energy absorbing pad, after the fact; and installing a leveling platform.

Safety Issues - Transfer

TRANSFER FUEL FROM POOL TO DRY CASKS

- ▶ **Canister drop:** Loaded cask in the pool weighs 40 tons - if dropped could breach pool floor.
- ▶ **NRC Guidance:** Not require Pilgrim to analyze the impact of a canister drop inside the pool. NRC assumes there is a "failure proof" handling system that will ensure there will be no cask drop.
- ▶ **Failure Proof?** Operators moving the casks are not failure-proof, neither are operators or designers and workers at factories manufacturing the crane and its accessory structure's parts. There were problems at Palisades NPS and Vermont Yankee NPS - both had failure-proof cranes.
- ▶ **Similar risks** exist when casks are moved from the reactor building to the ISFSI, and when they are eventually moved from the ISFSI to an off-site storage facility.

Canister Drop in the pool: If a cask is dropped in the pool and the pool floor is breached, pool water could drop below the tops of the assemblies leading to a pool fire. Also, there are many safety-related components located on the floors below the spent fuel pool which could be disabled that could simultaneously initiate an accident and disable accident mitigation equipment.

Canister Drop on the reactor building floor once removed from the pool and lowered to prepare for transfer outside the building to the storage pad: If a cask is dropped on the reactor building floor once it is removed from the pool, a drop could induce relay chatter or the opening and/or closing of relay contacts. This may result in important equipment being rendered inoperable such as valves erroneously opened or closed, pumps shut off, and loss of indications of the status of safety systems.

NRC Guidance: Entergy, however, was not required to analyze the impact of a canister drop inside the pool or, we presume, analyze the impact of a canister drop, once removed from the pool, onto the reactor building floor. NRC licensing guidelines accept the hypothesis that what it

calls a highly-reliable handling system eliminates any need for a load drop analyses. Therefore, going forward, Entergy will credit the handling system rather than a load drop analysis as the basis for safe handling of the canisters, both in the spent fuel pool and when lowering the cask onto the transporter.

Pilgrim Watch believes that there are no guarantees. The operators moving the casks are not failure-proof, neither are the operators or designers and workers at factories manufacturing the crane and its accessory structure's parts. There were problems at Entergy's Palisades NPS⁷⁶ and Vermont Yankee NPS,⁷⁷ both had failure-proof cranes.

Entergy is not required to have an energy absorbing pad at the floor of the pool. Again the rationale is that they have a single-failure proof crane; and also they installed a leveling platform.

Outdated preparations for a seismic event: NRC Commissioner Baran in 2020 noted that, "the earthquake risks at the Pilgrim site, which are greater than previously understood. In May 2014, as part of the post-Fukushima seismic hazard re-evaluation, NRC published updated ground motion response spectra for Pilgrim. The results revealed the potential for an earthquake at Pilgrim significantly stronger than the safe shutdown earthquake the plant was designed to handle. In fact, the gap between the previously understood seismic risk and the updated seismic risk was larger at Pilgrim than at any other nuclear power plant in the country." ⁷⁸

Entergy's seismic analysis was based on previous expectations not on the more severe events that we can now expect in the future. We do not know if both the bridge and the trolley were fitted with seismic restraints to maintain the crane on the girder and runway rails.

<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML19305C739>

⁷⁶ <http://www.nirs.org/reactorwatch/licensing/caskdanglesummaryreport4406.pdf>

⁷⁷ <http://www.timesargus.com/article/20141104/NEWS03/711049924>

⁷⁸ <https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML19305C739>; referencing, NRC memorandum (May 21, 2014) (ADAMS Accession No. ML14136A126).

Dry Cask Storage Safety Issues

Dry cask storage is far safer than pool storage, but there are problems.

According to the NRC:

- ▶ The thin (0.5") stainless steel canisters may crack within 30 years. Pilgrim began loading (3 casks) in 2014 - in 2044 these will be 30 years old. By 2022, 61 casks will have loaded.
- ▶ Currently, no technology exists to inspect, repair or replace cracked canisters.
- ▶ No pressure monitoring or pressure relief valves on canisters
- ▶ With limited monitoring, we will only know after the fact that a canister leaks radiation .
- ▶ Each cask needs monitors for radiation, heat, and helium & pressure relief valves.
- ▶ There is a risk of criticality from, for example, unborated water entering canister.

Each cask contains ½ as much Cesium-137 as the total released at Chernobyl

Although dry cask storage is far safer than pool storage, there are problems to consider.⁷⁹

- The thin (0.5") stainless steel canisters may crack within 30 years.
- No current technology exists to inspect, repair or replace cracked canisters.
- With limited monitoring, we will only know after the fact that a casks has leaked radiation.
- Susceptible to criticality
- Vulnerable to terrorist attack – planting a vegetation screen will not protect it.

Nevertheless, the Nuclear Regulatory Commission's (NRC), Waste Confidence Final Rule 2014 said that spent fuel can be stored at nuclear plants for 60 years (short-term), 100 years (long-term) and thereafter indefinitely.⁸⁰ But the NRC currently only initially certifies dry cask storage systems for 20 years. Can we depend on NRC's approval of license extensions that are now being handed out? The NRC, the Electric Power Research Institute (EPRI), and numerous government and scientific sources report the following problems with the current steel/concrete U.S. spent nuclear fuel dry storage systems:

⁷⁹ See: San Onofre Dry Cask Storage Issues analyses at:

<https://sanonofresafety.files.wordpress.com/2011/11/drycaskstorageissues2014-09-23.pdf>

⁸⁰ U.S Nuclear Regulatory Commission's (NRC) Nuclear Waste Confidence renamed Continued Storage of Spent Nuclear Fuel Generic Environmental Impact Statement (GEIS) and Rule, 79 Fed. Reg. 56,238-56,263 (Sept. 19, 2014) (Effective October 20, 2014). The decision is under appeal by the NY, MA, Vermont AGO and independent groups.

Safety Issues in Greater Detail

Canisters may need to be replaced within 30 years or sooner - Stress Corrosion Cracking: The thin 1/2" welded stainless steel canisters may have premature stress corrosion cracking within 30 years, caused by our marine environment.⁸¹ This could result in major radiation releases. Cracks in similar materials at nuclear power plants caused component failures in less than 30 years, example at San Onofre.⁸² Other cask systems, such as the German CASTOR V/19 (~20" thick) ductile cast iron casks, do not have this problem.⁸³ The concrete overpacks also have aging issues that are accelerated in coastal environments.

Our Recommendation: Pilgrim's casks will be stored outside on a pad, perhaps indefinitely. Because the Holtec system is susceptible to stress corrosion cracking exacerbated by a salt environment, Pilgrim Watch believes the ISFSI should be inside a building and inspected more frequently.

No technology to adequately inspect canisters for stress corrosion cracking. There is very limited available technology to inspect the outside of the stainless-steel canisters for cracks once they are loaded with nuclear waste. The canisters are covered by concrete. The industry is working to improve robots outfitted with cameras to travel down the ventilation channels. Currently, the robots have limited success and have not shown the ability to determine the depth of a crack. There is no information about whether Holtec plans to use robots; and if so, whether they would inspect all four ventilation channels. There is no way to actually examine the area between the ventilation channels.

Pilgrim's Dry Cask Monitoring Plan, May 2020:

- **NRC's Inspection Plan:** The first aging management inspections are conducted at the ISFSI site at the approximate time the ISFSI enters the period of extended operations, 20 years after the Hi-Storm 100 system was placed in service, in 2034. All future inspections will occur with a 5- year frequency (+/- 1.25 years) starting from the baseline date. This schedule applies to the canister external inspection and overpack internal inspections. NRC also looks at the physical condition of the casks (exterior only) and the pad, reviews any site-completed aging management reviews, and review any required surveillances.⁸⁴

⁸¹ Chloride-Induced Stress Corrosion Cracking Tests & Example Aging Management Program, Darrell S. Dunn, NRC/NMSS/SFST, Public Meeting with NEI on Chloride Induced Stress Corrosion Cracking Regulatory Issue Resolution Protocol, August 5, 2014 <https://sanonofresafety.files.wordpress.com/2013/06/8-5-14-scc-rirp-nrc-presentation.pdf>

⁸² Outside Diameter Initiated Stress Corrosion Cracking Revised Final White Paper, PA-MS-0474, October 13, 2010,

⁸³ See Top 10 Reasons to Buy Thick Casks, San Onofre Safety at: <https://sanonofresafety.files.wordpress.com/2014/10/thincanistersvsthickcasks2014-10-14.pdf>

⁸⁴ The NRC's inspection guidance for ISFSI activities can be found in Inspection Manual Chapter 2690, "Inspection Program for Dry Storage of Spent Reactor Fuel at Independent Spent Fuel Storage Installations and for 10 CFR Part

- **Holtec’s Inspection Plan:** Holtec has proposed an inspection frequency of 5 years (+/-1.25 years) for the HI-STORM 100 license renewal. Holtec will inspect one cask onsite or alternatively may choose to take credit for an inspection done at a different site. NRC has received the renewal application but has not accepted it.⁸⁵
- **There are no monitors installed on each cask to measure heat, helium (to provide early warning) and radiation.** The NRC’s reasons that there are not are unconvincing. NRC claims that the canisters used at Pilgrim are welded closed and therefore do not require the use of instrumentation to assure the safe storage of spent fuel. Prior to being placed on the ISFSI pad, the welds are examined and tested to confirm their integrity, and radiation measurements are taken. In accordance with the CoC for the HOLTEC HI- STORM 100 system, a surveillance of the passive heat removal system (air inlet and outlet vents) is required daily to ensure system operability. This can be achieved by either monitoring the inlet and outlet vent temperatures or performing a visual inspection daily to ensure that the vents are not blocked. Pilgrim has elected to perform daily visual inspections to ensure the air inlet and outlet vents do not become blocked and the passive heat removal system remains operable.
- NRC also says that Thermoluminescent dosimeters (TLDs) will be placed around the ISFSI (cask storage pad). NRC Ray McKinley said that, “The NRC intends to inspect Entergy’s plans for radiation monitoring of their independent spent fuel storage installation (ISFSI) at Pilgrim during upcoming inspection activities. Typically we have seen licensees at other sites install thermoluminescent type dosimeters at the ISFSI periphery. The frequency that licensees have performed radiological monitoring from dosimeters has varied from quarterly to yearly based on their specific program requirements. The results of radiological monitoring associated with the ISFSI are included in the licensee’s REMP report.”

Our Recommendation: The public would be better protected if each cask had real-time heat, helium and radiation monitors, considering that the canisters and concrete outer packs are prone to cracking and, especially in our marine environment. TLDs only provide an average figure, can only read to a maximum threshold, that is, like a film badge they can only read so high, and do not read high or low alpha and beta. A more robust aging management program sampling multiple casks, with more frequent inspections are needed.

71 Transportation Packaging” (ML092730246). Again, the aging management portion of the inspection program is currently under development.

⁸⁵ The publicly available version is in NRC’s Electronic Library, Accession number ML20049A083. The section about the inspection frequency is on page A-3. HI-STORM 100 CoC (certificate of compliance) renewal application ADAMS package: [ML20049A081](#).

No Pressure monitoring or Pressure Relief Valves for canisters.

- ▶ Canisters are pressure vessels.
- ▶ NRC does not require pressure monitoring or pressure relief valves, making the canisters vulnerable to hydrogen gas and other types of explosions.
- ▶ The NRC allows these and other exemptions to American Society of Mechanical Engineers (ASME) pressure vessel safety standards. ASME standards should be enforced, not exempted.



No current method to replace failing canisters.

Dr. Kris Singh, CEO, Holtec International has said:

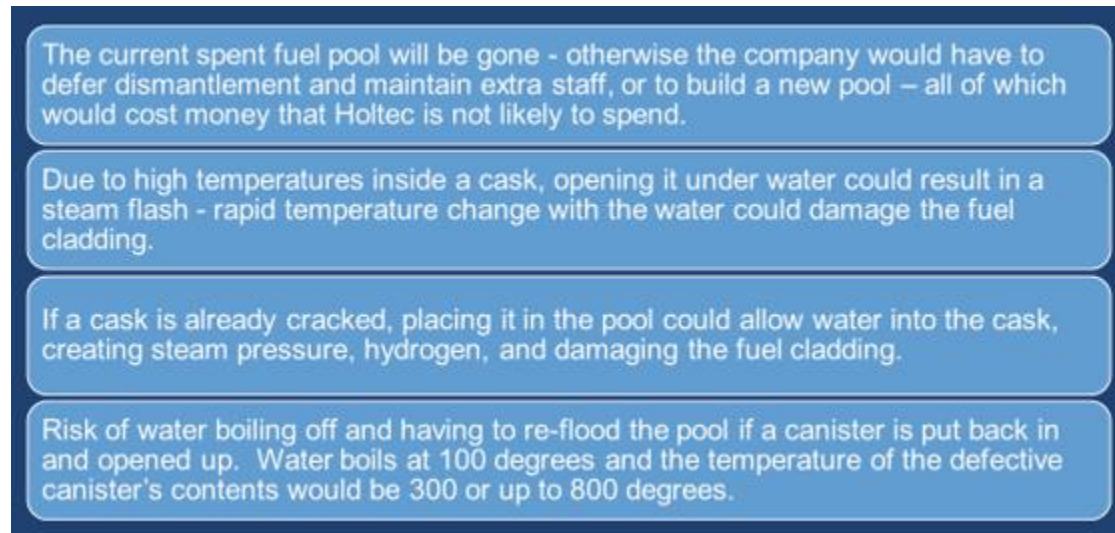
"...It is not practical to repair a canister if it were damaged... You will have... millions of curies of radioactivity coming out of canister... A canister that develops a microscopic crack (all it takes is a microscopic crack to get the release) To precisely locate it ... is a tall order. And then if you try to repair it (remotely by welding) ... the problem with that is you create a rough surface which becomes a new site for corrosion down the road.... I don't advocate repairing the canister."

(<https://www.youtube.com/watch?v=euaFZt0YPI4&t=37s>, Dec. 2014)

"Finally, how about fixing a crack in the MPC wall? I have stated that although it may be theoretically possible to repair a leak (or crack) in a canister, in my opinion it is not practical when one considers efficiency and radiation dose to the workers."

(August 17, 2018 White Paper)

Using a spent fuel pool to inspect or repair casks is not an option.



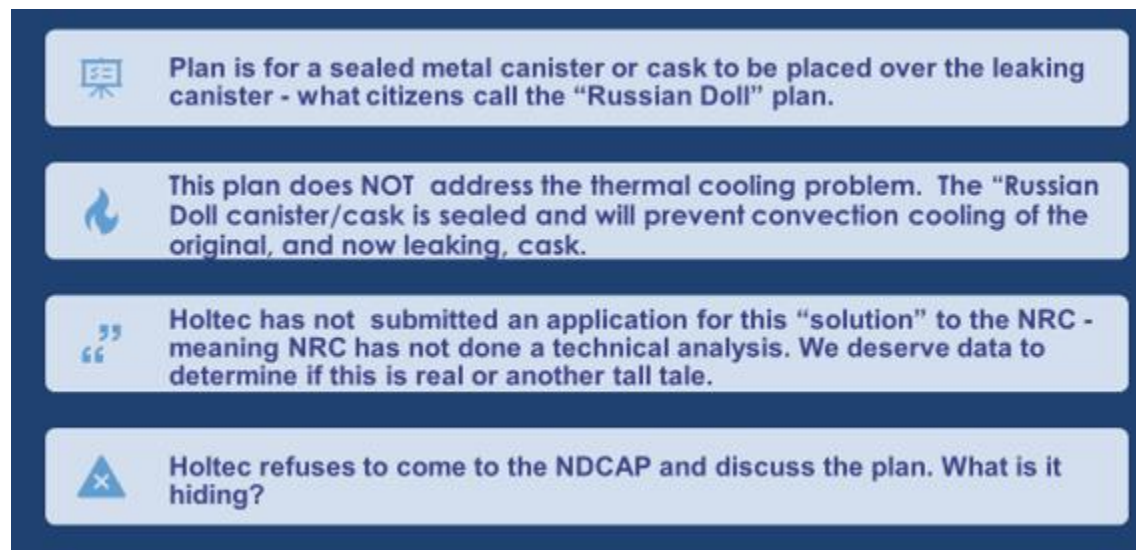
The current spent fuel pool will be gone - otherwise the company would have to defer dismantlement and maintain extra staff, or to build a new pool – all of which would cost money that Holtec is not likely to spend.


Due to high temperatures inside a cask, opening it under water could result in a steam flash - rapid temperature change with the water could damage the fuel cladding.


If a cask is already cracked, placing it in the pool could allow water into the cask, creating steam pressure, hydrogen, and damaging the fuel cladding.


Risk of water boiling off and having to re-flood the pool if a canister is put back in and opened up. Water boils at 100 degrees and the temperature of the defective canister's contents would be 300 or up to 800 degrees.


Holtec's latest solution placing another canister over the leaking canister -Russian Doll -is not a solution, either.



 Plan is for a sealed metal canister or cask to be placed over the leaking canister - what citizens call the "Russian Doll" plan.

 This plan does NOT address the thermal cooling problem. The "Russian Doll canister/cask is sealed and will prevent convection cooling of the original, and now leaking, cask.

 Holtec has not submitted an application for this "solution" to the NRC - meaning NRC has not done a technical analysis. We deserve data to determine if this is real or another tall tale.

 Holtec refuses to come to the NDCAP and discuss the plan. What is it hiding?

Hot or Dry Cells are not available to replace a failed canister.

The industry and NRC believe hot or dry cell technology may be the solution. Placing the leaking canister in a pool is out; however, dry handling of the cask and fuel is important to avoid disturbing the properties of the cask, cladding, fuel, and related hardware that would occur if the

materials were rewetted and rapidly cooled. But there is no dry handling facility available in the nation that is large enough to handle these canisters. The only US hot cell large enough to transfer fuel assemblies from one canister to another, the Idaho National Lab Test Area North hot cell, was destroyed in 2007.

Our Recommendation: Require more robust dry casks and adequately fund DOE to develop and build the equipment that is needed as quickly as possible. We cannot risk thousands of thousands of casks of spent nuclear fuel, spread throughout the United States, with no way to repair or replace them.

Criticality Risk: Holtec admitted to the NRC that if unborated water enters the canister [criticality](#) can occur. The NRC confirmed this. However, NRC claims canisters will not have through-wall cracks, so it will not happen. They ignore the fact even microscopic scratches, pits, or other corrosion, such as from moist salt air, can trigger cracking.

ISFSI SECURITY



Vulnerable terrorist target: Pilgrim is a symbolic target located in “America’s Hometown.” The threat against nuclear power plants is real. According to the 9/11 Commission report, the Sept.

11, 2001 terrorists initially considered attacking a nuclear power reactor.⁸⁶ According to a report “Protecting U.S. Nuclear Facilities from Terrorist Attack: Re-assessing the Current ‘Design Basis Threat’ Approach,”⁸⁷ prepared under a contract for the Pentagon by the Nuclear Proliferation Prevention Project (NPPP) at the University of Texas at Austin’s LBJ School of Public Affairs finds that none of the 104 commercial nuclear power reactors in the United States is protected against a maximum credible terrorist attack, such as the one perpetrated on September 11, 2001, nor against airplane attacks, nor even against readily available weapons such as rocket propelled grenades and 50-caliber sniper rifles.

The ISFSI is located 362’ from a public road. It is visible; it is vulnerable to weapons available today and to an air attack. It is not protected, as it should be, by a barrier or reinforced building to protect against a line of sight attack.

Commonwealth of Massachusetts and Holtec Pilgrim LLC and Holtec Decommissioning International LLC Settlement Agreement, June 16, 2020 (Section IV, paragraphs 22-23)

The Settlement Provisions regarding ISFSI Security are Inadequate.

Pilgrim Watch has consistently said that some type of barrier to a line-of-site terrorist attack is essential. The Town of Plymouth Board of Selectmen apparently were much more interested in hiding the ISFSI and did not advocate for real protection.

Holtec’s press release says nothing about protection. Rather, it says that the Settlement Agreement provided “Reasonable aesthetical requirements for the new ISFSI protected area, including some screening from Rocky Hill Road.” The Settlement itself says:

An enhanced vegetation planting scheme consisting of trees and/or other species that retain year-round foliage for the area between the outer ISFSI fence and the top and downward slope of the hill on the Rocky Hill Road side of the ISFSI to better or completely obscure the ability to view the ISFSI and related buildings from Rocky Hill Road; b) (i) a vegetation planting scheme consisting of arborvitaes or a like species that retains year-round foliage for the area in front of the Rocky Hill Road facing surface of the proposed vehicle barrier to obscure the ability to view the vehicle barrier wall from Rocky Hill Road and (ii) a scheme to install a rock or other appealing facade on the face of the of Rocky Hill Road facing surface of the proposed vehicle barrier wall and a planting scheme for Ivy or a like species along the same.

Does anyone really believe that a “vegetation planting scheme” will protect the ISFSI from attacks such as those described by Dr. Thompson?

⁸⁶ <http://www.resilience.org/stories/2004-07-25/911-report-reveals-al-qaeda-ringleader-contemplated-ny-area-nuclear-power-plant-p>

⁸⁷ <http://sites.utexas.edu/nppp/files/2013/08/NPPP-working-paper-1-2013-Aug-15.pdf>

Cybersecurity

The NRC exempted Pilgrim from the requirement to defend against cyberattacks.⁸⁸ The exemption becomes effective on April 1, 2020, 10 months after the cessation of power generation. This means that digital security communication equipment and security cameras needed to protect the spent nuclear fuel is now vulnerable.

The New York Times in 2017 reported that *Hackers Are Targeting Nuclear Facilities, Homeland Security Dept. and F.B.I. Say*.⁸⁹ Terrorist threats have increased, not decreased, since 2017.

Russian Cyber Attacks Call for Stringent Security Standards at US Nuclear Plants, But Plant Owners Want Them Weakened, Union of Concerned Scientist, Dr. Edwin Lyman.⁹⁰ The press release explains the threat to spent fuel storage from cyber-attacks at decommissioned plants such as Pilgrim.

WASHINGTON (March 16, 2018)—Yesterday, the Department of Homeland Security and the Federal Bureau of Investigation officially confirmed that Russian hackers have been targeting US nuclear power plants and other critical facilities since at least 2016. Regardless, the US nuclear industry has been pressuring the Nuclear Regulatory Commission to relax its cyber security standards.

Below is a statement by Edwin Lyman, a senior scientist at the Union of Concerned Scientists.

“The Department of Homeland Security alert is a stark reminder that nuclear power plants are tempting targets for cyber attackers. Although the systems that control the most critical safety equipment at US nuclear plants are analog-based and largely immune to cyber-attacks, many other plant systems with important safety and security functions are digital and could be compromised. For instance, electronic locks, alarms, closed-circuit television cameras, and communications equipment essential for plant security could be disabled or reprogrammed. And some plants have equipment, such as [cranes that move highly radioactive spent fuel](#), that utilize computer-based control systems that could be manipulated to cause an accident.

“Reports that the recent attacks on nuclear power plants were limited to their administrative systems and did not affect systems that have direct safety and security functions are not cause for complacency. Sophisticated cyber intruders could access administrative systems to obtain—or plant—compromising information to coerce key personnel to assist in a damaging attack.

⁸⁸ NRC Electronic Library, Adams, Accession Number ML19276C420

⁸⁹ <https://www.nytimes.com/2017/07/06/technology/nuclear-plant-hack-report.html>

⁹⁰ <https://ucsusa.org/about/news/russian-cyber-attacks>

“Therefore, the nuclear industry’s [petition to limit the scope](#) of Nuclear Regulatory Commission cyber-protection safeguards to only those systems with a direct impact on safety is foolhardy at best and, at worse, downright dangerous. The NRC has been deliberating over the industry’s ill-conceived proposal for nearly four years. In light of the growing cyber threat to nuclear plants highlighted by yesterday’s alert, the agency should now simply reject it.”

Settlement Agreement

Paragraph 23 is concerned with cybersecurity. It requires HDI, “within thirty (30) days of the Effective Date, certify to the implementation of a cybersecurity plan at Pilgrim, which shall, at the very least, include [10] cybersecurity measures.” In substance, the ten measures seem to be what should be standard business practice, e.g., eliminating exposure of Critical Digital Assets to external networks, implementing network segmentation, using secure remote access methods, and using only strong passwords.

The NRC will not release any cybersecurity details.

Independent Expert Security Analysis

Holtec in its April 2, 2020 *Pilgrim Nuclear Power Station, Physical Security Plan Revision and License Amendment Request to Incorporate Additional Independent Spent Fuel Storage Installation* described its security modifications associated with the proposed license amendment. These included: new security systems for lighting, intruder detection systems, protected area boundary fencing, access control systems, telecommunications equipment, a vehicle barrier system, and a central alarm station. Although details were omitted for safeguard reasons,⁹¹ none of these appear to address an attack on the dry casks of spent nuclear fuel from outside the protected area.

The following table, prepared by Dr. Gordon Thompson for the Massachusetts Attorney General,⁹² summarizes available means of attack.

⁹¹ <https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20141L057> Attachment 1, pg.,4

⁹²The Massachusetts Attorney General’s Request for a Hearing and Petition for Leave to Intervene With respect to Entergy Nuclear Operations Inc.’s Application for Renewal of the Pilgrim Nuclear Power Plants Operating License and Petition for Backfit Order Requiring New Design features to Protect Against Spent Fuel Pool Accidents, Docket No. 50-293, May 26, 2006 includes a Report to The Massachusetts Attorney General On The Vulnerability of Pilgrim’s Spent Fuel Pool - Risks and Risk-Reducing Options Associated with Pool Storage of Spent Nuclear Fuel at the Pilgrim and Vermont Yankee Nuclear Power Plants, Gordon Thompson, May 25, 2006

Mode of Attack	CHARACTERISTICS	PRESENT DEFENSE
Commando-style by land	<ul style="list-style-type: none"> • Could involve heavy weapons/sophisticated tactics • Attack requiring substantial planning and resources 	Alarms, fences, lightly-armed guards, with offsite backup
Commando-style by water	<ul style="list-style-type: none"> • Could involve heavy weapons/sophisticated tactics • Could target intake canal • Attack may be planned to coordinate with a land attack 	500 yard no entry zone – marked by buoys – simply, “no trespassing” signs Periodic Coast Guard surveillance by boat or plane
Land-vehicle bomb	<ul style="list-style-type: none"> • Readily obtainable • Highly destructive if detonated at target 	Vehicle barriers at entry points to Protected Area
Anti-tank missile	<ul style="list-style-type: none"> • Readily obtainable around world to those with ideological grievances • Highly destructive at point of impact 	None if missile is launched from offsite
Commercial aircraft	<ul style="list-style-type: none"> • More difficult to obtain than pre-9/11 • Can destroy larger, softer targets 	None
Explosive-laden smaller aircraft	<ul style="list-style-type: none"> • Readily attainable • Can destroy smaller, harder targets 	None


Drones, an added threat: Drones pose a number of security concerns for ISFSI security. Payload drones could deliver explosives to attackers onsite. But, the main concern is that drones could enhance tactical advantage. For example, drones could distract the security guard force during a ground attack, slowing their response or causing them to be mispositioned to the advantage of the attackers; and drones could target the security cameras, motion sensors, etc. to mask ground attackers. The timelines for security force personnel to deploy and prevent attackers from successfully sabotaging key equipment are short. Anything that prevents timely and proper response by the guard force could be a problem.

Impact of Shaped Charge

Dr. Gordon Thompson also analyzed the impact of a shaped charge as one potential instrument of attack.^{93]} The analysis shows that the cylindrical wall of the canister is about 1/2 inch (1.3 cm) thick, and could be readily penetrated by available weapons. The spent fuel assemblies inside the canister are composed of long, narrow tubes made of flammable zirconium alloy, inside which uranium oxide fuel pellets are stacked. The walls of the tubes (the fuel cladding) are about 0.023 inch (0.6 mm) thick.


⁹³ Gordon R. Thompson, *Environmental Impacts of Storing Spent Nuclear Fuel and High- Level Waste from Commercial Nuclear Reactors: A Critique of NRC's Waste Confidence Decision and Environmental Impact Determination* (Cambridge, Massachusetts: Institute for Resource and Security Studies, 6 February 2009). Tables also in Declaration of 1 August 2013 by Gordon R. Thompson: Comments on the US Nuclear Regulatory Commission's Draft Consequence Study of a Beyond-Design-Basis Earthquake Affecting the Spent Fuel Pool for a US Mark I Boiling Water Reactor.

Four of Dr. Thompson's slides, showing the impact of a shaped charge and atmospheric releases from different attack scenerios, are below.



Impact of Shaped Charge

Canister - 0.5" thick/ Concrete outer wall - 26.8"



► Performance of US Army Shaped Charges, M3 and M2A3

Target Material	Indicator	Type of Shaped Charge	
		M3	M2A3
Reinforced concrete	Maximum wall thickness that can be perforated	60 in.	36 in.
	Depth of penetration in thick walls	60 in.	30 in.
	Diameter of hole	• 5 in. at entrance • 2 in. minimum	• 3.5 in. at entrance • 2 in. minimum
	Depth of hole with second charge placed over first hole	84 in.	45 in.
Armor plate	Perforation	At least 20 in.	12 in.
	Average diameter of hole	2.5 in.	1.5 in.

Notes: (a) Data are from: Army, 1967, pp 13-15 and page 100. (b) The M2A3 charge has a mass of 12 lb., a maximum diameter of 7 in, and a total length of 15 in including the standoff ring. (c) The M3 charge has a mass of 30 lb., a maximum diameter of 9 in, a charge length of 15.5 in, and a standoff pedestal 15 in long⁹⁴

⁹⁴ Ibid.

Atmospheric Releases from Attack Scenarios

In one type of release, gases and small particles are swept out of the MPC during a blowdown of gases in the MPC through a comparatively small hole. That release would expose a person downwind to a comparatively small inhalation dose.

In the second type of release, air would enter and leave the MPC through one or more holes, and the zirconium alloy cladding of the spent fuel would be ignited by use of incendiary material. That release could include a large amount of cesium-137 that would cause significant radiological harm at distances of tens of km downwind. An attacking group seeking to maximize the impact of its attack would clearly prefer the second type of release.

Types of Atmospheric Releases from Attack

Type of Event	Module Behavior	Relevant Instruments and Modes of Attack	Characteristics of Atmospheric Release
Type I: Vaporization	<ul style="list-style-type: none"> Entire module is vaporized 	<ul style="list-style-type: none"> Module is within The fireball of a nuclear-weapon explosion 	<ul style="list-style-type: none"> Radioactive content of module is lofted into the atmosphere and amplifies fallout from nuclear explosion
Type II: Rupture and Dispersal (Large)	<ul style="list-style-type: none"> MPC and overpack are broken open Fuel is dislodged from MPC and broken apart Some ignition of zircaloy fuel cladding may occur, without sustained combustion 	<ul style="list-style-type: none"> Aerial bombing Artillery, rockets, etc. Effects of blast etc. outside the fireball of a nuclear weapon explosion 	<ul style="list-style-type: none"> Solid pieces of various sizes are scattered in vicinity Gases and small particles form an aerial plume that travels downwind Some release of volatile species (esp. cesium-137) if incendiary effects occur

Types of Atmospheric Releases from Attack

Type III: Rupture and Dispersal (Small)	<ul style="list-style-type: none"> MPC and overpack are ruptured but retain basic shape Fuel Is damaged but most rods retain basic shape No combustion inside MPC 	<ul style="list-style-type: none"> Vehicle bomb Impact by commercial aircraft Perforation by shaped charge 	<ul style="list-style-type: none"> Scattering and plume formation as for Type II event, but involving smaller amounts of material Little release of volatile species
Type IV: Rupture and Combustion	<ul style="list-style-type: none"> MPC is ruptured, allowing air ingress and egress Zircaloy fuel cladding is ignited and combustion propagates within the MPC 	<ul style="list-style-type: none"> Missiles with tandem warheads Close-up use of shaped charges and incendiary devices Thermic lance Removal of overpack lid 	<ul style="list-style-type: none"> Scattering and plume formation as for Type III event Substantial release of volatile species, exceeding amounts for Type II release

26

One scenario for an atmospheric release from a dry cask would involve mechanically creating a comparatively small hole in the canister. This could be the result, for example, of the air blast produced by a nearby explosion, or by the impact of an aircraft or missile. If the force was sufficient to puncture the canister, it would also shake the spent fuel assemblies and damage their cladding. A hole with an equivalent diameter of 2.3 mm, radioactive gases and particles released would result in an inhalation dose (CEDE) of 6.3 rem to a person 900 m downwind from the release. Most of that dose would be attributable to release of two-millionths (1.9E-06) of the MPC's inventory of radioisotopes in the "fines" category.

Another scenario for an atmospheric release would involve the creation of one or more holes in a canister, with a size and position that allows ingress and egress of air. In addition, the scenario would involve the ignition of incendiary material inside the canister, causing ignition and sustained burning of the zirconium alloy cladding of the spent fuel. Heat produced by burning of the cladding would release volatile radioactive material to the atmosphere. Heat from combustion of cladding would be ample to raise the temperature of adjacent fuel pellets to well above the boiling point of cesium.

Potential for Release from a Cask and Consequences: Dr. Thompson observed that casks are not robust in terms of its ability to withstand penetration by weapons available to sub-national groups. A typical cask would contain 1.3 MCi of cesium-137, about half the total amount of cesium-137 released during the Chernobyl reactor accident of 1986. Most of the offsite radiation exposure from the Chernobyl accident was due to cesium-137. Thus, a fire inside an ISFSI module, as described in the preceding paragraph, could cause significant radiological harm.

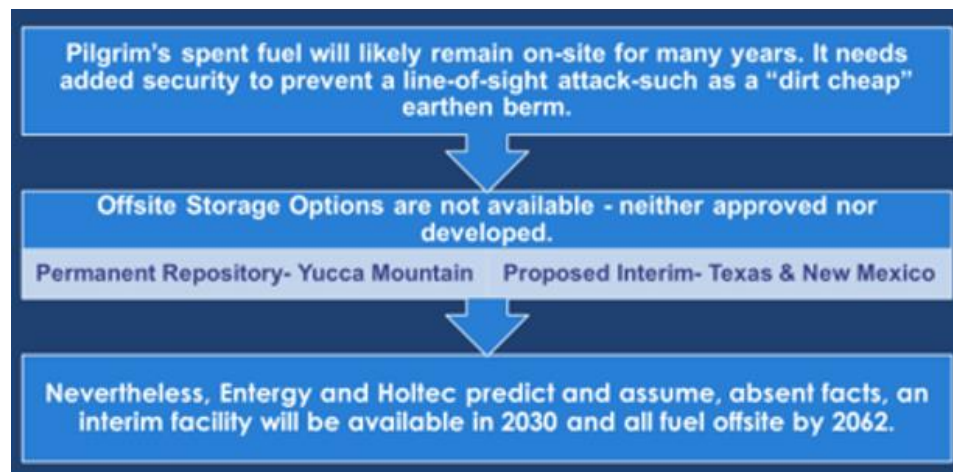
Options to reduce risk: Use thick-walled metal casks, dispersal of the casks, and protection of the casks by berms or bunkers in a configuration such that pooling of aircraft fuel would not occur in the event of an aircraft impact.

Holtec has developed a design for a new ISFSI storage module that it said to be more robust against attack than present modules. The new module is the HI-STORM 100U module, which would employ the same canister used in the present Holtec modules. For most of its height, the 100U module would be underground. Holtec has described the robustness of the 100U module as follows^[31]:

"Release of radioactivity from the HI-STORM 100U by any mechanical means (crashing aircraft, missile, etc.) is virtually impossible. The only access path into the cavity for a missile is vertically downward, which is guarded by an arched, concrete-fortified steel lid weighing in excess of 10 tons. The lid design, at present configured to easily thwart a crashing aircraft, can be further buttressed to withstand more severe battlefield weapons, if required in the future for homeland security considerations. The lid is engineered to be conveniently replaceable by a later model, if the potency of threat is deemed to escalate to levels that are considered non-credible today."

Another option would have been to sink the ISFSI storage pad lower into the ground to allow for a shorter barrier wall.

Offsite Storage Options

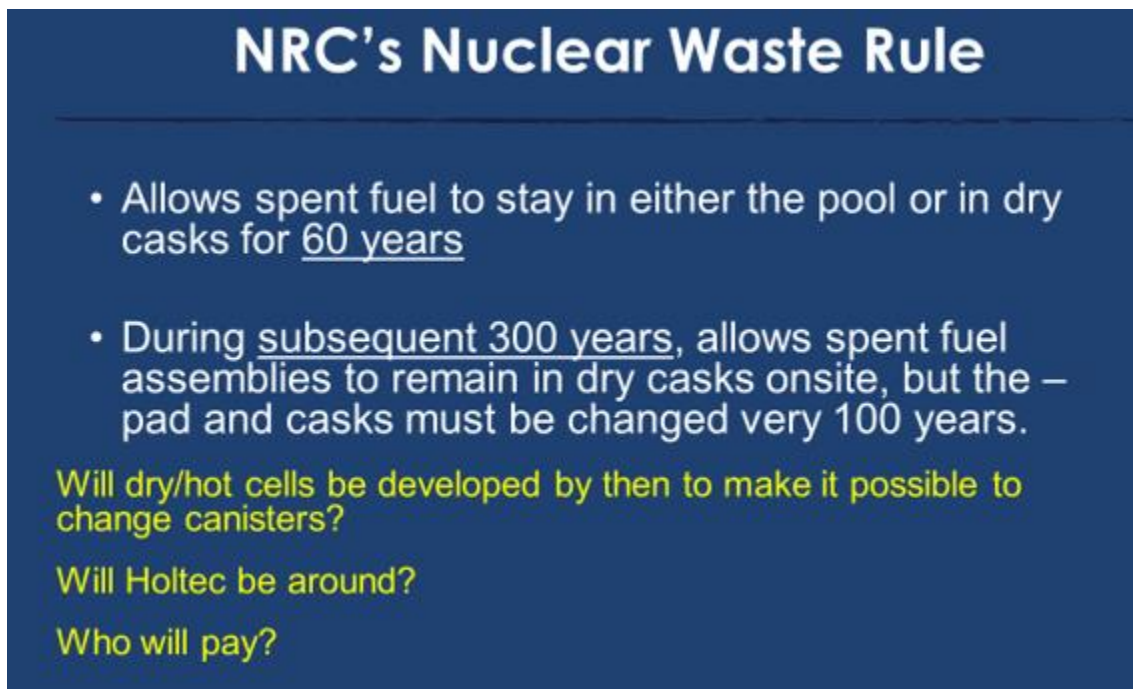


^[31] Holtec International, "The HI-STORM 100 Storage System", accessed at <http://www.holtecinternational.com/hstorm100.html> on 17 June 2007.

The long term goal is to move spent fuel to a permanent repository - a storage facility located deep underground and designed for long-term safe disposal so that it will be isolated from the environment for the tens of thousands of years that it will remain toxic. The potential interim goal is consent based consolidated storage. There is no perfect answer to storing nuclear waste that will be lethal for over 250,000 years-longer than humans have been on this earth.

But should efforts to find the perfect solution stand in the way of a good solution? Pilgrim Watch believes that storing waste in 70 or so separate locations around the country is a bad plan. Reactors are located adjacent to bodies of water, needed to provide cooling to disipate excess heat. Proximity to water is exactly the wrong places to store nuclear waste. Also, Pilgrim, and some other reactors, are close to densely populated areas making a timely evacuation impossible. Reactor sites are tempting terrorist targets, especially those in symbolic locations, like "America's Hometown", Plymouth. Last host communities, like Plymouth, never agreed to storing spent fuel. We were told that the fuel would be reprocessed and never accumulate onsite.

NRC and industry claim spent fuel will leave Pilgrim by 2063, NRC has a Plan B in case it remains onsite.



NRC's Nuclear Waste Rule

- Allows spent fuel to stay in either the pool or in dry casks for 60 years
- During subsequent 300 years, allows spent fuel assemblies to remain in dry casks onsite, but the – pad and casks must be changed very 100 years.

Will dry/hot cells be developed by then to make it possible to change canisters?

Will Holtec be around?

Who will pay?

Federal and Congressional (In) Actions for Offsite Storage

Nuclear Waste Policy Act: The Nuclear Waste Policy Act of 1982 (NWPA) calls for disposal of spent nuclear fuel in a deep geologic repository. NWPA requires the Department of Energy (DOE) to develop such a repository, which would be licensed by the Nuclear Regulatory Commission (NRC).

Yucca Mountain: Amendments to NWPA in 1987 restricted DOE’s repository site studies to Yucca Mountain in Nevada. DOE submitted a license application for the proposed Yucca Mountain repository to NRC on June 3, 2008. The State of Nevada strongly opposes the Yucca Mountain project, citing excessive water infiltration, earthquakes, volcanoes, human intrusion, and other technical issues.⁹⁵

Licensing and design work for the proposed Yucca Mountain repository was halted under the Obama Administration, which cited continued opposition from Nevada. To develop an alternative nuclear waste policy, the Obama Administration established the Blue- Ribbon Commission on America’s Nuclear Future, which in 2012 recommended a “consent based” process for siting nuclear waste storage and disposal facilities.⁹⁶

The Trump Administration included funds to restart Yucca Mountain licensing in its FY2018, FY2019, and FY2020 budget submissions to Congress; but it said it would not seek funds in FY 2021 due we presume to the November election. The FY2018 and FY2019 Yucca Mountain funding requests were not enacted. For FY2020, the House did not provide funding for Yucca Mountain in the Energy and Water Development appropriations bill (H.R. 2740), and the Senate Appropriations Committee also provided no funding in its version of the bill (S. 2470), approved September 12, 2019.

Several nuclear waste bills have been introduced in the 116th Congress. See tables prepared by the Congressional Research Service.⁹⁷ The Senate Energy and Natural Resources Committee held a hearing June 27, 2019, on a bill to create a Nuclear Waste Administration to implement a consent-based siting process for nuclear waste facilities (S. 1234). Newly proposed waste sites would require consent by host states and affected local governments and Indian tribes. How consent is determined is not spelled out. The bill would not affect the existing Yucca Mountain licensing process.

A bill to provide the necessary land controls for the planned Yucca Mountain repository, H.R. 2699 was introduced May 14, 2019. The bill also would authorize DOE to store commercial waste from nuclear power plants at a nonfederal interim storage facility and ease the capacity limit on the Yucca Mountain repository from 70,000 to 110,000 metric tons, in comparison with the approximately 80,000 metric tons currently stored at U.S. nuclear plants. It is similar to a bill passed by the House in the 115th Congress (H.R. 3053, H.Rept. 115-355).

Other nuclear waste bills in the 116th Congress would prohibit expenditures on the Yucca Mountain repository without state and local consent (H.R. 1544, S. 649), establish priorities for nuclear waste disposal (H.R. 2995), and authorize grants to communities to compensate for continued waste storage at closed reactors (S. 1985), among others.

⁹⁵ See the State of Nevada website for updated

reports <http://www.state.nv.us/nucwaste/whatsnew.htm>

⁹⁶ https://www.energy.gov/sites/prod/files/2013/04/f0/brc_finalreport_jan2012.pdf

⁹⁷ Civilian Nuclear Waste Disposal, Mark Holt, Sept 16, 2019, Congressional Research Service

https://www.everycrsreport.com/files/20190916_RL33461_b58c25fcf4f40e7eb5dfbe1bef2c65e4bf07863.pdf



Deep Isolation Technology:⁹⁸ Deep Isolation’s disposal concept leverages directional drilling expertise to isolate spent nuclear fuel and high-level radioactive waste in horizontal drill holes located deep underground in suitable rock formations. The website describes the process as, “Rather than creating large tunnels, Deep Isolation will place nuclear waste in narrow 18-inch horizontal drill holes in rock that has been stable for millions of years. No humans need to go underground. The Deep Isolation repository begins with a vertical access drill hole extending thousands of feet deep and will gently turn horizontal. Canisters containing nuclear waste would be stored in the horizontal section.”

Private Interim Storage: Nonfederal interim storage facilities for spent nuclear fuel are being proposed in New Mexico and Texas. Interim storage proponents contend that DOE could fulfill its disposal obligations under NWPAs by taking title to spent fuel at nuclear plant sites and storing it at private facilities until a permanent underground repository could be opened.

Texas, WCS: The waste management company Waste Control Specialists (WCS) filed an application on April 28, 2016, for an NRC license to develop a consolidated interim storage facility for spent nuclear fuel in Texas. WCS asked NRC to suspend consideration of the license application until April 18, 2017, citing estimated licensing costs that were “significantly higher than we originally estimated.” However, WCS subsequently formed a joint venture with Orano USA called Waste Control Partners, which submitted a renewed application for the Texas facility on June 11, 2018. The proposed WCS spent fuel storage facility would be built at a 14,000-acre WCS site near Andrews, TX, where the company currently operates two low-level radioactive waste storage facilities with local support. The facility would consist of dry casks on concrete pads. Construction would take place in eight phases, with each phase capable of holding 5,000 metric tons of spent fuel, for a total capacity of 40,000 metric tons. Under the WCS proposal, DOE would take title to spent fuel at nuclear plant sites, ship it to the Texas site, and pay WCS for storage for up to 40 years with possible extensions, according to the company. DOE’s costs would be covered through appropriations from the Nuclear Waste Fund, as were most costs for the Yucca Mountain project. WCS contends that a privately developed spent fuel storage facility would not be bound by NWPAs restrictions that prohibit DOE from building a storage facility without making progress on Yucca Mountain. NRC Staff offered initial support in its draft version

⁹⁸ <https://www.deepisolation.com/technology/>

of the environmental impact statement, May 2020. NRC intends to complete its environmental impact in a year, following a public comment period and public meetings.⁹⁹

New Mexico, Holtec: An NRC license application for a spent fuel storage facility in New Mexico was filed March 30, 2017, by Holtec International, a manufacturer of spent fuel storage systems. The facility would be located on 1,045 acres of land provided by a local government consortium near the Waste Isolation Pilot Plant in New Mexico, the Eddy-Lea Energy Alliance (ELEA). The proposed facility, called the Holtec International Storage Module (HI-STORM) Consolidated Interim Storage Facility, would hold up to 173,600 metric tons of spent fuel in 10,000 canisters. The facility would be developed in 20 modules holding 500 canisters each, using about 288 acres of the site. Each canister would be stored vertically in an underground cavity covered by a radiation-shielding lid. Holtec recently purchased retired nuclear plants and plan to use the plants' decommissioning funds to dismantle the plants. The proposed storage facility in New Mexico could allow the company to remove all the spent fuel from its decommissioned nuclear plants without necessarily having to transfer title to the fuel to DOE beforehand. "Holtec hopes to ship the multi-purpose canisters (MPCs) containing the used fuel to the Company's proposed consolidated interim storage facility ...," according to a company news release. The news release also said Holtec's reactor decommissioning business "will welcome several more nuclear plants in the next two years." The news release did not specify whether the costs of spent fuel shipment and storage at the New Mexico facility would be paid from reactor decommissioning funds, the Nuclear Waste Fund, the Judgment Fund, or other sources.

Opponents of Holtec's plan, including Beyond Nuclear, a nonprofit organization with members nationwide, said the application violates the Nuclear Waste Policy Act "because they contemplate federal ownership of spent fuel during transportation to and/or storage" at the private facilities, according to a March 2019 lawsuit the nonprofit filed against the federal government and the NRC.

Under the NWPA, the federal government cannot take title to privately produced spent nuclear fuel until a final repository is operational. However, in this ruling the NRC found the license, if approved, would authorize Holtec to take possession of the spent fuel at its site and would not violate the NWPA by transferring title to the fuel. Additionally, the license would not sanction Holtec or the Department of Energy to enter into storage contracts.

"Holtec and DOE acknowledge that it would be illegal under NWPA for DOE to take title to the spent nuclear fuel at this time, although Holtec states that it hopes that Congress will amend the NWPA in the future," according to the April 23 ruling. "The NWPA does not prohibit a nuclear power plant licensee from transferring spent nuclear fuel to another private entity." Opponents argued in front of the Atomic Safety Licensing Board in January 2019. The proceedings were to determine if the opponents had standing to argue the case. In May 2019, the ASLB determined they failed to show cause for intervening. The Governor and local Native Americans also object.

⁹⁹ NRC Staff Backs Licensing for Second Spent-Fuel Storage Site, Exchange Monitor, May 4, 2020

Wyoming: A committee of the Wyoming legislature in July 2019 began studying the possibility of storing spent fuel in the state, according to media reports.

No Congressional Authorization: As noted above, legislation that would explicitly authorize DOE to enter into contracts with privately owned spent fuel storage facilities (H.R. 2699, H.R. 3136) were introduced in the 116th Congress. Similar provisions were included in bills introduced but not enacted in the 115th Congress (H.R. 474) and (H.R. 3053), and the 114th Congress (H.R. 3643)

Roadblocks to Consolidated Storage: Critics say transporting highly radioactive material through densely populated areas will pose risks to residents of Texas and nearby New Mexico, and other regions of the country. Spent nuclear fuel from power plants could be vulnerable in transit to accidents or attacks, exposing people and land to long-term radioactive poisoning, opponents of the Texas and New Mexico projects say. Public interest groups have a national campaign to “Stop Fukushima Freeways” (<http://www.nirs.org/>) to oppose consolidated sites.

Licensees sue DOE for breach of contract: NWPAs required DOE to begin removing spent fuel from reactor sites by January 31, 1998. Because that deadline was missed, nuclear utilities have sued DOE to recover the additional storage costs they have incurred, with damage payment so far totaling \$7.4 billion¹⁰⁰

Reprocessing- Why it is Not the Answer to Our Spent Fuel Waste Problem

The Yucca Mountain nuclear waste repository may never happen; and Consolidated Storage is not a sure thing by any means. Now we are back to square one on the question: What are we going to do with all the radioactive waste accumulating at U.S. nuclear power reactors? Some are suggesting that we go back to re-processing - a process that takes spent nuclear fuel and dissolves it to separate the uranium and plutonium from the highly radioactive fission products. The plutonium and uranium are then recycled to make new reactor fuel, thereby reducing the amount of fresh uranium required by about 20% but also increasing the supply of weapons grade plutonium.

Pilgrim Watch does not support reprocessing because it does not solve the waste problem; rather it exacerbates it by creating numerous additional waste streams that have to be managed. It is expensive, polluting and increases nuclear weapons proliferation threats.

Expensive: Based on French and Japanese experience, the cost of producing this recycled fuel produced in reprocessing is several times that of producing fresh uranium reactor fuel. In the past, about half of France's reprocessing capacity was used to process spent fuel from foreign reactors. Because of the high cost, however, virtually all of those foreign customers have decided to follow the U.S. example and simply store their used reactor fuel.

¹⁰⁰ Civilian Nuclear Waste Disposal, Mark Holt, Sept 16, 2019, Congressional Research Service
https://www.everycrsreport.com/files/20190916_RL33461_b58c25fcf4f40e7eb5dfbe1befe2c65e4bf07863.pdf

The French reprocessing company AREVA claims that its method reduces the volume and longevity of the radioactive waste produced by nuclear power reactors. But when you take into account the additional radioactive waste streams created by reprocessing and plutonium recycling, the volume of the long-lived radioactive waste is not reduced. And most of the recycled plutonium is neither destroyed nor reused. Its makeup makes it difficult to use in existing reactors, so AREVA simply stores most of it at the reprocessing plant. Reprocessing as practiced in France amounts to an expensive way to shift France's radioactive waste problem from its reactor sites to the reprocessing plant.

Dangerous:

Security: Reprocessing is enormously dangerous. The amount of radioactivity in the liquid waste stored at France's reprocessing plant is more than 100 times that released by the Chernobyl accident. That is why France's government set up anti-aircraft missile batteries around its reprocessing plant after the 9/11 attacks.

Leaks: It is also dangerous due to leaks. The biggest experiment in reprocessing was at Sellafield in Britain. In 2005, after decades of contamination and leaks into the ocean, air, and land around the reprocessing plant, Sellafield was shut down because a bigger-than-usual leak of fuel dissolved in nitric acid — some tens of thousands of gallons — was discovered. It contained enough plutonium to make about 20 nuclear bombs. Radioactive leaks are documented around Areva's reprocessing facilities in France.

Nuclear Proliferation: Even more dangerous, however, is the fact that reprocessing provides access to plutonium, a nuclear weapon material. That is why the U.S. turned against it after 1974, the year India used the first plutonium separated with U.S.-provided reprocessing for a nuclear explosion. President Gerald Ford and Henry Kissinger, his secretary of State, managed to intervene before France and Germany sold reprocessing plants to South Korea, Pakistan and Brazil, all of which had secret weapons programs at the time. Japan is the only non-nuclear weapon state that still does today. If the U.S. began to reprocess again, that would legitimize another route to the bomb for nuclear weapon wannabes.

Bob Alvarez, former Department of Energy official and national expert on nuclear issues, summarized in an article he wrote in the Bulletin of Atomic Scientists:

“Reprocessing plants release about 15,000 times more radioactivity into the environment than nuclear power plants and generate wastes with high decay heat. Other efforts to build what is called a "closed fuel cycle," where waste is recycled and reused in reactors have failed for 50 years. Such failure has left about 250 tons of excess plutonium stored at reprocessing plants around the world—enough for some 30,000 nuclear weapons. It's time to accept that a once-through nuclear fuel cycle, where spent fuel is put into permanent geologic storage, is the only sensible option.”
- Bulletin of Atomic Scientists, Bob Alvarez, Advice for the Blue-Ribbon Commission, March 24, 2010.

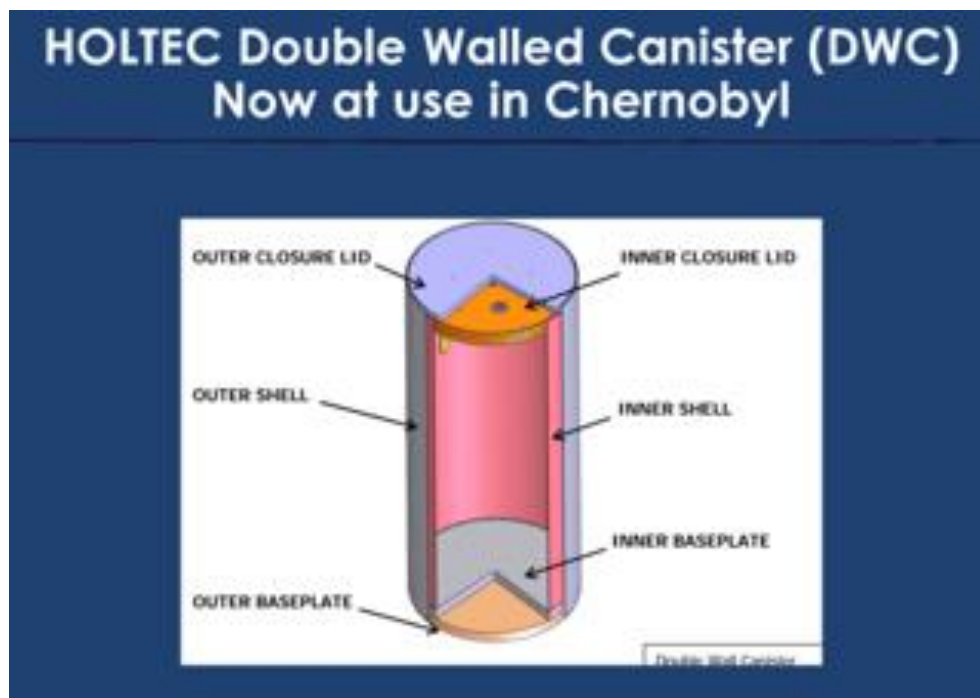
The best ways to reduce the vulnerability and consequences of a spent fuel pool fire are to reduce the number of spent fuel assemblies in the spent fuel pool, and to move the spent fuel to hardened dry cask storage.

Long term, we must look for and develop a scientifically sound deep geological repository or repositories based on consent-based siting.

In the short term, there are ways to reduce the risks of on-site dry cask storage.

Double Walled Canisters. Holtec Double Walled Canisters are now in use at Chernobyl. Holtec says that this design is far less liable to fail as the result of corrosion than are the canisters now at Pilgrim.

Safer Cask Designs and Storage



Holtec's "New" Double Walled Canisters (DWC)

Holtec HTB-020 bulletins describe a DWC (total wall thickness about 0.4 to 2 inches – (US Patent 10,026,514) that, according to Holtec, "offers several crucial operational advantages over a single wall multi-purpose canister" such as those at Pilgrim, including:

- Completely isolating the inner shell (the only shell in Pilgrim's multi-purpose canisters (MPC's) from the environment;
- Minimizing the potential for corrosion of the exterior vessel exposed to the environment; and
- Preventing release to the environment even if there is through-wall cracking of the exterior vessel.

Holtec says that "any current MPC user can switch to the DWC design without incurring a significant switching cost."

Will Holtec use DWC canisters with "crucial operational advantages" at Pilgrim as soon as they have been licensed by the NRC?

Switch to thick walled casks, like those used in much of Europe. Even though the thick-walled CASTOR casks are vulnerable to anti-tank weapons, and weapons technology has improved since the 1998 test described in <http://archives.nirs.us/factsheets/nirfctshdrycaskvulnerable.pdf>, thick walled casks present several advantages relative to those use at Pilgrim.

Ten reasons to use thick nuclear waste storage casks

Safety Features	Thin canisters	Thick casks
1. Thick walls	1/2"- 5/8"	10"- 19.75"
2. Won't crack		✓
3. Ability to repair, replace seals		✓
4. Ability to inspect (inside & out)		✓
5. Monitor system prevents leaks		✓
6. ASME container certification		✓
7. Defense in depth (redundancy)		✓
8. Store in concrete building		✓
9. Gamma & neutron protection	Need overpack	✓
10. Transportable w/o add'l cask		✓
Market leader	U.S.	World

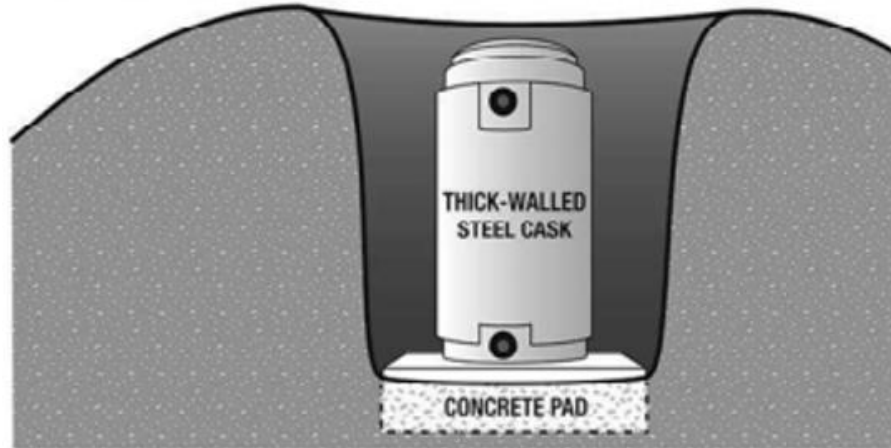


SanOnofreSafety.org

Store casks in reinforced building or surround each cask with an earthen berm, a dirt-cheap solution.

The arrangement below is being used to store Holtec casks at San Onofre, and is what Holtec plans to use at its proposed interim storage facility

Earth/gravel berms should surround each cask and hide from ground-level view.



Recap: Chernobyl-Type Disaster in Each Canister - Each contains half as much Cesium - 137 as the total released at Chernobyl

- ▶ Short term crack and leak risk in thin-wall stainless steel canisters from environmental and other conditions
- ▶ Criticality risk, for example if unborated water enters canister.
- ▶ No analysis of cask/pad integrity using Pilgrim's updated earthquake risk.
- ▶ No workable plan to prevent or stop leaks, explosions or criticalities in Pilgrim's thin-wall canisters.

SITE CLEANUP

How Clean is Pilgrim

Holtec assumes that the Pilgrim site is “clean,” but -

- Pilgrim has a long history of contamination.
- Holtec has not characterized the site to identify and quantify radiological and hazardous waste.
- Holtec’s planned site restoration costs (\$40.1 M) include only the “costs associated with conventional dismantling, demolition and removal from the site of structures and systems.” Does not mention soil.

The Attorney General and Pilgrim Watch know that the site is not clean.

- Contaminated radiological and hazardous materials have been buried on site.
- There is a serious risk that contaminated materials will flow into Cape Cod Bay and the Plymouth Aquifer.

The bottom line here is clear: The Pilgrim site must be cleaned-up and, so far as possible, be restored to its pre-nuclear-power-plant condition. This must be done not only to ensure that the site will meet the Commonwealth’s residual radiation standard after it is released by the NRC, but also to ensure that decommissioning is accomplished in a way that minimizes the release of radiological and hazardous materials to ensure that the health and safety of the public will be protected.

Holtec has now contracted with BHI Entergy to characterize the Pilgrim site, but the scope of BHI Entergy’s work has not been disclosed and is far from clear. All Holtec has said is that BHI Entergy will review Entergy’s Historical Site Assessment (HAS), scope a survey, develop, and execute survey plans, and provide a final report.

Holtec, when it prepared its site restoration estimates in its Post Shutdown Decommissioning Activities Report (PSDAR), admitted that *it did not know* what radiological and hazardous waste actually exists on Pilgrim’s site. (Holtec PSDAR 8-11; DCE pg., 14). Instead, it made the incorrect assumption, based on outdated and incomplete historical data, that there is “no significant contamination” on the Pilgrim site (Decommissioning Cost Estimate, p. 22); and its estimated \$40 million site restoration cost included only, “those costs associated with conventional dismantling, demolition, and removal from the site of structures and systems.” (PSDAR, p 19).

Pilgrim Watch and the Commonwealth know that there is “significant contamination” on the Pilgrim site, and that site restoration will require far more.¹⁰¹

Pilgrim opened with bad fuel and no off-gas treatment system. Later, it blew its filters prompting Mass Dept. Public Health to do a case-control study of adult leukemia, confirming that the closer you lived or worked at Pilgrim the greater the increase in leukemia.

Radionuclides, including for example tritium, manganese, cesium-137, Sr-90, I-131, cobalt-60, Plutonium, and neptunium were found offsite, and also in the surface water, groundwater, and soils at Pilgrim at levels exceeding “background” levels; monitoring wells placed onsite from 2007 forward show consistent levels of radiological contamination-contamination not yet removed. The base of the torus is cracked; other structures, pipes and tanks containing or carrying radioactivity or hazardous material also may have cracked or may do so. Hazardous waste was illegally buried onsite. See Pilgrim Watch Motion to Intervene, pp 36-46.

The Commonwealth’s Motion to Intervene included a sworn expert declaration from John M. Priest Jr, Director of Radiation Control MDPH and a former Pilgrim employee. Mr. Priest said that:

9. Based on my site knowledge, contamination has previously been identified by the utilities in the soil in the vicinity of the condensate water storage tank, the reactor truck lock and radioactive waste building. Further, there were other releases into the environment associated with a former condenser tube refurbishment building east of the radioactive waste truck lock. Historically, contaminated soil from previous site remediation has been “stockpiled” on a small hill along the east protected area fence. DPH does not know whether these sites and others were captured as part of decommissioning records required by 10 C.F.R. § 50.75(g), communicated to Holtec and evaluated by Holtec in its decommissioning cost estimate. Based on my knowledge of this site and experience at other nuclear power plants, it is reasonable to assume based on this site’s history that other contaminants will be identified once excavation and demolition begins.

10. Long-lived radionuclides are likely to be found in soils and groundwater far from the small excavation made to repair the leaks that likely allowed reactor condensate to enter into the site soils for many years. In addition, these same long-lived radionuclides are likely to be found in many other structures, systems, and components, which may also have unknowingly leaked over the decades into soils and the groundwater at the Pilgrim property

Experience at other decommissioned reactors showed significant cost increases from “unknown” contamination discovered only later. At Connecticut Yankee, for example, previously undiscovered strontium-90 contributed to the actual cost of decommissioning Connecticut

¹⁰¹ Pilgrim Watch Petition to Intervene & Request for Hearing, NRC Electronic Library, Adams, Accession Number ML19051A019; Commonwealth Petition to Intervene & Request for Hearing, NRC Electronic Library, Adams, Accession Number ML19051A114

Yankee being *double* what had been estimated. Connecticut ratepayers had to pay a \$480 million shortfall for cleanup of CT Yankee.¹⁰² During the decommissioning of Maine Yankee, the licensee encountered pockets of highly contaminated groundwater dammed up by existing structures, leading to cost increases. The Yankee Rowe site in Massachusetts incurred significant cost increases during decommissioning when PCBs were discovered in paint covering the steel from the vapor container that housed the nuclear reactor, as well as in sheathing on underground cables. Other plants have also ended up costing much more than what was estimated for decommissioning- Diablo Canyon 1&2, San Onofre 2&3.¹⁰³

At this point in time, no one knows how much hazardous waste and radiological contamination must be removed from the Pilgrim site, or what the actual cost of removing it will be. However, three things are clear – the site is contaminated, there is no money in the DTF to pay to remove it, what the costs will be, and unless these contaminants are properly removed they will end up in Cape Cod Bay and perhaps the Plymouth-Carver Aquifer underneath the site.

The primary goals of site clean-up and restoration are protecting the environment and to making it possible to return the site for unrestricted use. Many radioactive and chemical contaminants will persist for thousands of years. Specific priorities to help ensure that this goal is achieved include the following.

1. Radiological Clean-Up Standard
2. Dose Assessment
3. Early Site Assessment
4. Site Clean-Up and Restoration
5. Interim Inspection and Sampling
6. Environmental Monitoring
7. License Termination Plan and Final Status Survey Report

¹⁰² Hartford Current, November 12, 2005

<http://www.courant.com/news/local/hccynukemess.artnov12,0,6222764.story?col l=hc-headlines-home>

¹⁰³ See, e.g., NRC, SECY-13-0105, at Summary Table, available at <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2013/213-0105scy.pdf>.

Radiological Cleanup Standard

The NRC radiological cleanup standard is 25 millirem/year for unrestricted use sites and 100-500 millirem/year for restricted use sites. It is based on outdated research on the health effects from exposure to radiation; more recent research from the National Academies of Sciences Biological Effects of Ionizing Radiation Report,¹⁰⁴ (BEIR VII) found health impacts to be more serious.

In April of 2018, the Commonwealth proposed a more conservative standard to Entergy and Holtec. It said that the maximum residual radiation level, distinguishable from background radiation, should be as low as reasonably achievable and should result in a total effective dose equivalent that is less than 10 mrem/year and less than 4 millirem/year for drinking water sources of groundwater, and that the standard should apply to each portion of the site, rather than being an average over the site.

Both Entergy and Holtec then refused to sign. However, a residual radiation standard is part of the June 2020 Settlement Agreement, as discussed below. In its Press Release, Holtec said that a major highlight of the agreement was Holtec's "Commitment to meeting Commonwealth's radiological standard of 10 millirem for all pathways, which is 40% of the Federal standard of 25 millirem."¹⁰⁵

How much residual radiation remains on Pilgrim's site, in Cape Cod Bay, and in the Plymouth-Carver aquifer will have a major effect on public health, principally the risk of cancer.

The following table, based on the latest National Academies Biological Effects of Ionizing Radiation Report (BEIR VII), shows the difference in health impact between NRC's standard and the Commonwealth's.

¹⁰⁴ <https://www.nap.edu/catalog/11340/health-risks-from-exposure-to-low-levels-of-ionizing-radiation>

¹⁰⁵ The Settlement Agreement does not include the < 4 ml/rem/year for drinking water sources of ground water, apparently because this is required by current EPA regulations. However, these regulations, and the groundwater <4 ml/rem standard, could change depending on the Administration in DC.

Cleanup Standards and Health Effects

Lifetime Exposure (millirem/year)		70 year Risk of Developing Any Cancer	
Current MA limit for <u>Unrestricted Use</u> for its licensees. Does not Apply to Pilgrim, an NRC licensee	10	→	70/100,000 (0.7/1,000)
NRC Limit for <u>Unrestricted Use</u>	25	→	175/100,000 (1.75/1,000)
NRC Limit for <u>Restricted Use</u>	100	→	700/100,000 (7/1,000)
NRC Limit for <u>Restricted Use</u>	500	→	3,500/100,000 (35/1,000)
Risk of Fatal Cancer is one half to two thirds the risk of developing any cancer.		Reproductive disorders occur at lower levels of radiation exposure than cancer.	
The level of risk for radionuclides is significantly higher than the allowed risk for chemicals.		DEP's risk level goal for a mixture of chemicals is a lifetime cancer incidence risk of 1 in 100,000 . DEP risk level goal for one chemical is a lifetime cancer incidence risk of 1 in a million .	
DPH Proposed Radiological Clean-Up Standard: All pathways - <10 mrem/year Ground water sources of drinking water- < 4 mrem/year			

A residual radioactivity standard of < 10 ml/rem and < 4 ml/rem is not radical. Indeed, it is far less protective of public health than is EPA and DEPs standard for chemicals. EPA's and DEP's risk level goal for a **mixture of chemicals** is a lifetime cancer incidence risk of **1 in one hundred thousand (1/100,000)**. DEP's risk level goal for **one chemical** is lifetime cancer incidence risk of **1 in a million (1/1,000,000)**. Also, Lifetime Cancer Risk estimates based on BEIR VII are much higher. The Table, based on BEIR VII's conclusion that "the BEIR VII lifetime risk model predicts that approximately **1 person in 100 would be expected to develop cancer (solid cancer or leukemia) from a dose of 0.1 Sv [10,000 millirem] above background**" (BEIR VII, p. 8) shows the risk from a lifetime (70 year) exposure to various levels of radiation.

Because Holtec would not sign an agreement with DPH when it was first proposed, we suggested that Massachusetts (or any state) should issue a regulation establishing a standard more conservative than NRC's, to become effective only after the effected site is released by NRC. After the NRC releases a site, there can be no preemption. The NRC's Frequently Asked Questions About Decommissioning make it quite clear that, after the NRC has terminated Pilgrim's operating license and released Pilgrim's site, the NRC no longer has any authority over the released site or any right to control what is done with the released site.

Both Maine and New Jersey require that the residual radioactivity at a site that has been decommissioned and is no longer licensed be lower than 25 millirems/year. Maine law says the residual radioactivity of a decommissioned plant cannot be more than 10 millirems per year; New Jersey requires that a site be remediated to less than 15 millirems per year once it is

decommissioned. Massachusetts Department of Public Health has a <10 millirem/year standard for radioactive material users it regulates, such as hospitals and labs.

A less than 10 ml/rem/year standard is indeed technologically feasible. NRC's Bruce Watson, Chief of the Reactor Decommissioning, informed us on January 3, 2018 that "Since (he) was involved with the 7 power reactors to various degrees that had their licenses terminated since 1997, the final residual activity was typically a small fraction of the unrestricted release criteria, a few mrem per year with some that I am more familiar with ended at ~1 to 3 mrem per year."

Commonwealth Settlement:

Section III Site Restoration and Environmental Requirements and Reporting, Paragraph 10(d), is directed at "addressing radiological contamination at the Site."

Paragraph 10(d)(1) says that, at the time of partial site release,

"Holtec shall ... demonstrate compliance, or progress toward compliance, with 105 C.M.R. § 120.245, the Massachusetts radiological standard for unrestricted use of <10 millirem per year for all pathways, and reduction of residual radioactivity to levels that are otherwise as low as reasonably achievable ("ALARA");"¹⁰⁶

Paragraph 10(d)(2) allows Holtec to delay compliance with the Massachusetts standard for at least five years after Partial Site release "subject to DPH approval, which shall not be unreasonably withheld;" and Para.10(d)(3) allows the time for compliance to be further "extended by mutual agreement, which shall not be unreasonably withheld by DPH, for a reasonable period of time in the event of unforeseen conditions or circumstances beyond Holtec's control.

The Settlement does not set a hard date by which Holtec must meet the Massachusetts standard.

¹⁰⁶ The Settlement Agreement does not include the < 4 ml/rem/year for drinking water sources of ground water, apparently because this is required by current EPA regulations. However, these regulations, and the groundwater <4 ml/rem standard, could change depending on the Administration in DC.

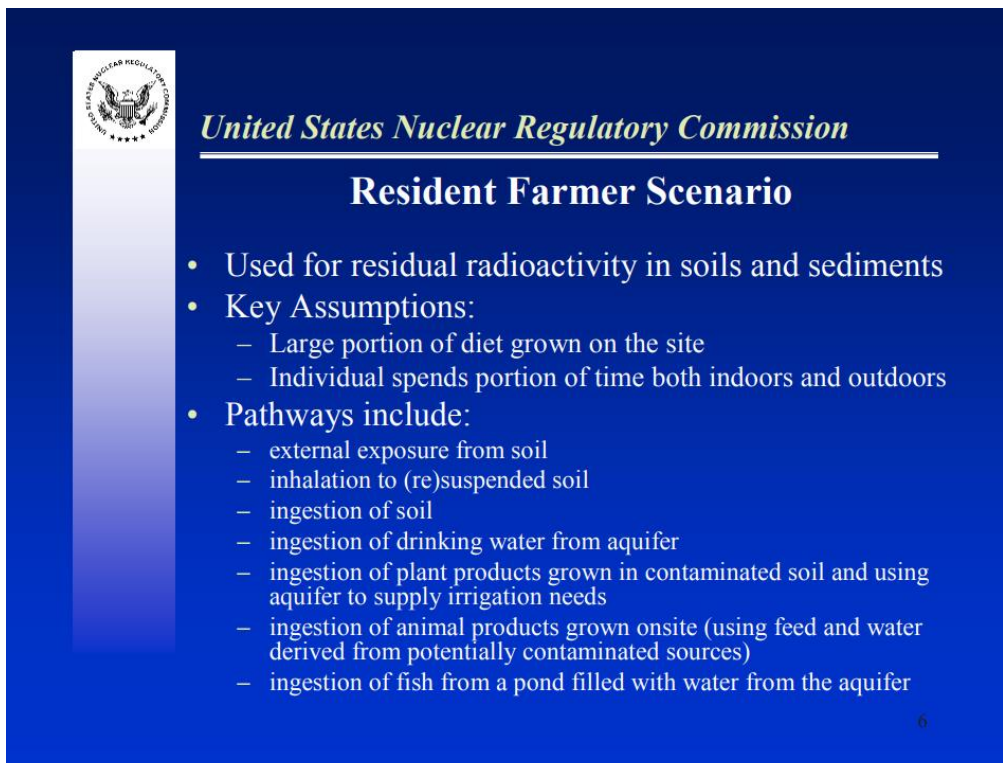
Dose Assessment

No matter what the standard, it will be protective of public health and safety only if conservative models are used to assess dose. Dose should be determined using the Resident Farmer Scenario and Basement Inventory Model.

Resident Farmer Scenario

The dose assessment to determine compliance with the standard should be based on the “Resident Farmer Scenario”- the most conservative method used and the one followed, for example, by Maine Yankee, Yankee Atomic, Connecticut Yankee, Humboldt and Trojan. NorthStar agreed on the resident farmer model for Vermont Yankee. Also, the NRC uses the Resident Farmer Scenario in assessing doses.

A July 8, 2005 NRC slide presentation (ML051860189) said that the “ultimate goal of dose modeling is to estimate the dose to a specific reactor,” and there are several potential scenarios.



The image is a slide from the United States Nuclear Regulatory Commission. It features the NRC logo in the top left corner. The title "United States Nuclear Regulatory Commission" is written in a serif font, followed by "Resident Farmer Scenario" in a larger, bold serif font. Below the title is a list of bullet points describing the scenario's use and assumptions. The slide has a dark blue background with white text.

United States Nuclear Regulatory Commission

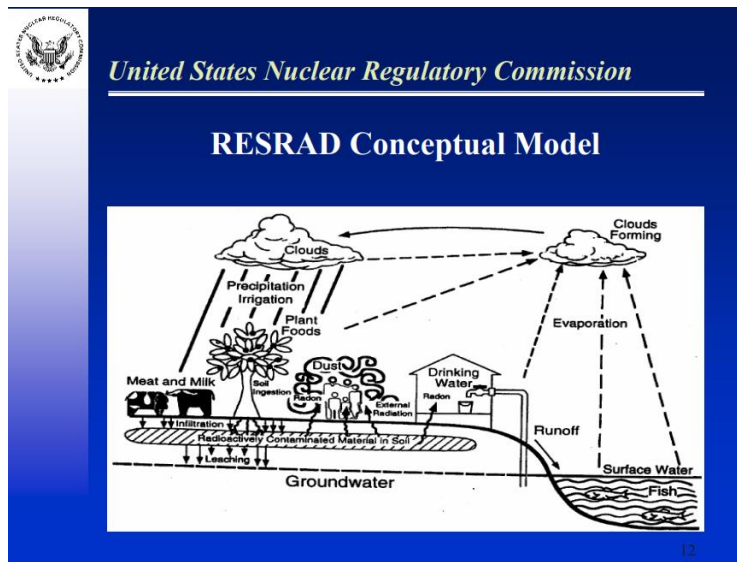
Resident Farmer Scenario

- Used for residual radioactivity in soils and sediments
- Key Assumptions:
 - Large portion of diet grown on the site
 - Individual spends portion of time both indoors and outdoors
- Pathways include:
 - external exposure from soil
 - inhalation to (re)suspended soil
 - ingestion of soil
 - ingestion of drinking water from aquifer
 - ingestion of plant products grown in contaminated soil and using aquifer to supply irrigation needs
 - ingestion of animal products grown onsite (using feed and water derived from potentially contaminated sources)
 - ingestion of fish from a pond filled with water from the aquifer

The Resident Farmer. The NRC presentation explained that a principal difference between the two and another possible scenario, Building Occupancy, is that the latter is “used for residual radioactivity on indoor building surfaces.”

A 2012 NRC Safety Evaluation Report (ML12314A076) was clear that one important aspect of a scenario is whether “it considers the potential routes of exposures of the critical group.”

The pathways considered by the Resident Farmer Scenario “cover all the potential routes of exposures” ([ML051860189 - Dose Assessment for Decommissioning.](#)) “Because the exposure pathways considered for the resident farmer scenario cover all the likely routes of exposures, it is unlikely that any other set of reasonably plausible human activities postulated for the site would result in a dose exceeding that calculated for the hypothetical farmer.” (NRC Adams Library Accession No. ML051430520). Potential exposure pathways relevant to a site such as Pilgrim are shown in the following slide.



The NRC’s 2012 Safety Evaluation Report noted that “the use of the Resident Farmer Scenario is consistent with the NRC guidance in NUREG-1757 and NUREG/CR-5512, Residual Radioactive Contamination from Decommissioning, Technical Basis for Translating Contamination Levels to Annual Total Effective Dose Equivalent.

Basement Inventory Model

The basement inventory model also should be used to calculate dose, in particular to determine the amount of residual radioactivity that remains in any remaining below-grade structures or building materials that will be used as backfill. What remains below grade must be “cleaned” to remove radioactivity to the agreed radiological standard before the hole is filled with dirt, cement or whatever. The lion’s share of the volume of the filled basement will be the clean fill. If the fill can be part of the dose average it will “water- down” the reading. In the basement inventory model, the fill cannot be counted in the calculation of dose.

Commonwealth Settlement:

Section III Site Restoration and Environmental Requirements and Reporting, Para. 10(d)(5), is directed to dose models. It says:

“To demonstrate compliance with Paragraph 10(d), Holtec shall use ... the “resident farmer scenario” and “basement inventory model” to model the potential exposure to residual radioactivity in all pathways.”

However, para. 10(d)(5) also says that **Holtec does not need to use the conservative “resident farmer scenario” or “basement inventory model”** if “the Parties ... mutually agree to an alternative standard for modeling if an approved future reuse supports the use of such an alternative standard.” What more permissive models might be substituted or what such an “approved future reuse” might be are nowhere explained.

Para. 10(d)(4) says “Holtec shall not sell, transfer, and/or lease control, use, or ownership of or over the Site prior to compliance with the terms of Paragraph 10(b).” We would expect Holtec to say that it has complied with Paragraph 10(d) long before the Commonwealth would agree that they have. Exactly what is required for “compliance with the terms of Paragraph 10(d)” is much less clear than we would have hoped.

Early Site Assessment

Until and unless Holtec conducts a thorough and complete characterization of the Pilgrim site, neither it nor anyone else will know what radiological and hazardous contamination is on site, how that contamination will be remediated, and what the actual costs will be.

The Pilgrim site will not be properly cleaned-up and restored *unless*:

- a. Holtec completes a thorough early assessment of the Pilgrim site for the impacts of climate change on Pilgrim’s site (sea level rise, severe storms coinciding with high tides and exceptional wave heights, rising groundwater tables, flooding, and increased acidity contributing to corrosion of any underground structures); and an assessment of radiological materials and non-radioactive hazardous materials in 2020. Without such assessments, Holtec cannot accurately plan, or estimate the costs of, decommissioning.
- b. Holtec provides the Commonwealth with the protocols for its review of climate change impacts and radioactive and hazardous waste assessments and will give the Commonwealth the opportunity to provide comments with respect to the protocol.
- c. The Commonwealth is given access to the site and the opportunity to take and analyze samples and make observations.
- d. Within 30 days following completion of the assessment, Holtec gives the Commonwealth a detailed report of the results of the assessments, including all data and other information learned during or as a result of the assessments.

Commonwealth Settlement

Paragraph 11 of the Settlement Agreement is directed to “plans.” It requires Holtec to “submit to DEP and DPH for their review and approval the Initial Pilgrim Environmental Site Assessment

work plan prepared by the LSP (Licensed Site Professional) retained in accordance with Paragraph 10(b)” that “is consistent with recommendations contained in the HAS.” In addition to a “description” of how Holtec would characterize and remove structures “necessary for Partial Site Release, Par. 11 also says that the work plan must include nine (9) “proposed” lists, plans and schedules. Exactly what the plans, and particularly any approved revised work plan, will require is nowhere stated.

Paragraph 12 requires Holtec to “meet and confer with DEP and DPH to discuss the terms of the work plan and a reasonable schedule for conducting the Initial Pilgrim Environmental Site Assessment.”

However, Paragraph 10(a) of the Agreement limits the information that Holtec must provide the Commonwealth to “documents referenced in section 10 of the Historical Site Assessment for Pilgrim dated December 8, 2018 (“HSA”) and any other document related to radiological and non-radiological contamination at the Site that it or Holtec International possess or may come to possess through a request to Entergy within the sixty-day (60) period.

There is no requirement to give the Commonwealth documents written prior to deregulation when Pilgrim was operated by BECO and had significant radiological releases. Neither is there anything to indicate that the site assessment will encompass the radiological and hazardous waste issues specifically identified in the Commonwealth’s or Pilgrim Watch’s Petitions to intervene. At the June 22, 2020 NDCAP meeting, Patrick O’Brien of CDI refused to say that Holtec would look at any of them.

We remain concerned that Holtec’s site assessment will be inadequate, and that it will be carefully designed to ensure that as little contamination as possible is found that requires remediation. The only Site Restoration costs that Holtec’s PSDAR foresaw “are those costs associated with conventional dismantling, demolition, and removal from the site of structures and systems after confirmation that radioactive contaminants have been removed.” We have seen nothing to indicate that Holtec intends to look at anything else.

Site Clean-Up and Restoration

To ensure the essential clean-up and restoration, Holtec should enter into written agreements to do what is listed in items a-k below, all of which were agreed to by NorthStar in Vermont. If Holtec does not agree, the Commonwealth should require that Holtec (or as applicable to any future owner of the Pilgrim site or any portion thereof, comply with all of these requirements before any released portion of the Pilgrim site is used for any purpose, or is sold, leased or otherwise transferred to any third party.

- a. All decommissioning and spent fuel storage activities conducted at the Pilgrim site must comply with all applicable state environmental and human-health based laws, standards, and regulations.

- b. Holtec must provide the Commonwealth and Nuclear Decommissioning Citizens Advisory Panel (NDCAP) with the following:
 - An identification and description of historical uses of all below grade structures, including all materials known or suspected to be generated, stored, contained, spilled, released, or disposed in each structure.
 - A description of any process that has been or will be used to characterize each below grade structure, including all steps that have been or will be taken to remove and manage all materials generated, stored, contained, spilled, released, or disposed in each below-grade structure; and
 - A description of any process that has been or will be used to characterize soil and groundwater near each below-grade structure.

- c. Holtec must provide the Commonwealth and NDCAP with:
 - A detailed description of all concrete used or proposed to be used as fill material, including:
 - identification of the structures from which the concrete will be obtained
 - identification of any paints and other coatings on the structures; and
 - a description of all non-radiological wastes or materials that have been stored in each of the structures, any non-radiological wastes or materials which have contaminated the structures, and any wastes or materials which have been discharged from the structures.
 - Holtec must provide a detailed description of how the concrete material will be processed and managed on site, including:
 - Holtec must provide a detailed description of how concrete materials will be processed (removal of rebar and other reinforcing materials), and resulting size specifications of resulting aggregate material; and
 - Holtec must provide a detailed description the total volume of crushed aggregate material to be used as fill (expressed in cubic yards).
 - Holtec must provide a detailed Identification of the specific location(s) at the site where concrete will be managed and used as fill. This shall include, at a minimum, a site map (minimum dimensions of 8½" by 11") that identifies: the location(s) on site where concrete fill material will be stockpiled; the locations(s) on site where the fill material will be disposed of; the waste management boundary of the disposal site(s); and any other siting information required by the Commonwealth.
 - Holtec must provide a detailed schedule of all activities undertaken or proposed to be undertaken under the plan (including characterization, demolition, on-site management, and filling activities).
 - Holtec must provide a characterization of all concrete used or proposed to be used as fill on site that includes, at a minimum, the following:
 - Holtec must provide a list of all non-radiological contaminants for which the concrete from each structure will be characterized; and
 - Holtec must provide a detailed description of the specific sampling and analysis methods and processes that will be used to characterize the concrete from each structure (including all coatings or paints) for non-radiological contaminants.

- Holtec must provide a proposed plan for the use of any off-site materials proposed as fill on site, such a plan to include a plan to characterize any such off-site materials that includes, at a minimum, the following:
 - a list of all non-radiological contaminants for which the offsite materials will be characterized; and
 - the specific sampling and analysis methods and processes that will be used to characterize the off-site materials.
- d. All underground structures at Pilgrim—including building foundations, buried piping, and contained piping¹⁰⁷— must be removed to a depth of 3 feet below ground surface (“ground surface” means existing site contours, which are depicted in the most recent site map) and to a greater depth wherever required to meet the Commonwealth’s residual radiation standards.
- e. All pipes and other spaces with void space that are 3 feet or more below ground surface and are to be left in place must be filled with concrete or other material as necessary to ensure stability of the ground above.¹⁰⁸
- f. All regulated substances from pipes and other structures and are managed in accordance with applicable standards, and that all sheathed cables with PCB coatings must be excavated, and managed and disposed of in accordance with the Commonwealth’s Hazardous Waste Management Regulations and other applicable standards.
- g. All asbestos-containing material must be removed, regardless of depth.
- h. No concrete or other materials from buildings or structures on the Pilgrim Station site can be used as fill at the Pilgrim Station site, with the exception that concrete from the Pilgrim Station can be used as fill if: (1) it contains no reactor-derived radionuclides as distinguishable from background for the Pilgrim Station site pursuant to the material characterization process employed at the Yankee Rowe Nuclear Power Station for onsite reuse of backfill material; and (2) any non-radiological contamination in that concrete does not exceed background soil concentrations, or site-specific background concentrations approved by DEP.
- i. Any sub-surface soil excavated as part of demolition can be used at Pilgrim only to the extent that it complies with Commonwealth radiological and non-radiological standards.
- j. Structures more than 3 feet below ground level can remain in place only if:

¹⁰⁷ “Buried piping” means piping that is underground and in direct contact with the ground/soil; “contained piping” means piping that is underground but within some other structure and thus not in direct contact with the ground/soil.

¹⁰⁸ In the case of a pipe the top portion of which is above the 4-foot cut-off, and the bottom portion of which is deeper than the 4-foot cut-off, the licensee shall remove the portion that is above the 4-foot cut-off and shall be permitted to leave in place the portion that is deeper than the 4-foot cut-off.

- No residual radioactivity in the structures exceeds the Commonwealth’s residual radioactivity standards.
 - No non-radiological contamination in the structures exceeds the approved non-radiological remediation standards set forth by the Commonwealth or other site-specific remediation standard approved by DEP; and
 - Results of characterization of soil and groundwater in proximity of the structures do not exceed non-radiological remediation standards.
 - Buried piping and enclosed structural chambers that are more than 3 feet below ground surface remain in place only after a survey demonstrates that any radiological contamination on the inner surfaces of such pipes and structures does not exceed the Derived Concentration Guideline Levels for < 10 mrem/year from all pathways combined and <4 for all drinking water sources ground water.
- k. Upon completion of decommissioning and site restoration of the Pilgrim Station site, Holtec must provide to MDPH, DEP, NDCAP and the Town of Plymouth a comprehensive survey and site plan identifying the location and depth of all below-grade structures remaining at the site and confirming that every remaining subsurface structure meets the release criteria described in this section. Holtec will record the comprehensive survey and site plan in the land records of the Town of Plymouth and will erect field monumentation on the Pilgrim Station site to provide notice of all remaining below-grade structures in a manner that does not impede future use of the site.

Commonwealth Settlement.

Paragraph 10 says that the Commonwealth and Holtec “agree that the site restoration standards and requirements identified below shall apply to the Pilgrim Site.” These “standards and requirements” address, albeit in far less detail that we would have hoped, some of what needs to be done. For example:

- a. Par. 10(g) requires Holtec to remove “all structures at the Pilgrim Site necessary for Partial Site Release (including the shoreline and in- water structures), other than the seawall, water intake structure, ISFSI and associated security facilities or other structures approved by DEP to remain on Site” before Partial Site Release, and “By the License Termination date [to] remove all structures that remain at the Pilgrim Site including the ISFSI and associated security facilities, other than the Switchyard and those structures DEP approves to remain on Site;”
- b. Par. 10(h) says that “Holtec shall remove the radioactive waste materials from the Site necessary to meet the NRC radiological release criteria and the terms of this Agreement “ and that it “may not dispose of any radioactive waste materials on the site or use rubblized radioactive waste materials as fill at the site;”¹⁰⁹

¹⁰⁹ Rubblization is a process in which above-grade structures are demolished into rubble and buried in the structure’s foundation below ground. The site surface is then covered, regraded, and landscaped for unrestricted use. It creates copious quantities of radioactive dust, “appears” to lessen the concentration

- c. Par. 10(i) requires Holtec to “abate all asbestos and lead containing materials prior to any demolition activities and remove all asbestos and lead containing material from the Site for disposal at an authorized off-Site location, unless otherwise approved and agreed to in writing by DEP;”
- d. Par. 10(j) says that, unless otherwise approved by DEP and DPH, Holtec shall “fill all subsurface voids, regrade the land to the currently existing-site ground elevations, and reseed the land;”
- e. Par.10(k) says that “Holtec shall address polychlorinated biphenyl (PCBs) contamination at the Site;” and
- f. Par. 10(l) says that “Holtec shall comply with all applicable environmental and human-health based standards and regulations of the Commonwealth.”

Paragraph 12 says that Holtec will do what the revised and approved Pilgrim Environmental Site Assessment work plan requires.

Paragraph 13 says that “Following the identification of radiological or non-radiological contamination in the Initial Pilgrim Environmental Assessment conducted pursuant to the work plan approved by DEP and DPH under Paragraph 12 and subsequent to timely notification of any Reportable Conditions as defined in the MCP and Chapter 21E to DEP and DPH, Holtec shall perform comprehensive site assessment and response actions in accordance with the MCP and under the oversight of the LSP retained by under Paragraph 10(b).”

Paragraph 14 is directed to the Switchyard. Although located close to the reactor building, it likely will remain, and be used by some electric power company, after decommissioning. We expect that there will be no site restoration of the Switchyard while any of its equipment remains in place.

We are concerned that the Settlement Agreement seems not to address how the Commonwealth is to ensure that Holtec has properly done what an approved revised work plan requires. Most of what Holtec is required to do simply is to give the Commonwealth copies of Holtec’s reports to the NRC.

of radioactivity by down blending the count of the radioactivity left on site but without reducing the total amount of radiation in the material, poses a threat to public health and decreases the long-term stability of the land.

The only supposed “advantage” of rubbleization is that it may cheaper; but there are numerous reports that it is not.

Interim Inspection and Sampling

To insure proper clean-up and restoration of Pilgrim, Holtec should give the Commonwealth access to the Pilgrim site during decommissioning to the extent reasonably required for Commonwealth personnel to accompany NRC personnel during NRC inspections and to take and test its own samples and split samples. In other words, to test and verify.

We have found nothing in the Settlement Agreement that gives the Commonwealth these important rights.

Environmental Monitoring

What Should Happen to Protect Public Health and Safety.

Pilgrim Watch believes that for environmental monitoring to be effective the following should be required:

- Holtec must agree to provide sufficient monies, that include funding state laboratories, to cover the Massachusetts Department of Public Health (DPH) expenses for offsite and onsite radiological monitoring and testing until the spent fuel leaves the site.
- Holtec must work cooperatively with MDPH and DEP to develop appropriate protocols related to radiological and non-radiological remediation and site restoration for information sharing, obtaining samples from onsite environmental media, conducting site visits and inspections, site characterization, remediation, site restoration, and notifications.
- These protocols must be acceptable to MDPH and DEP, be made publicly available, and shall recognize that MDPH and DEP must approve all work plans and testing protocols prior to implementation and retain authority over all determinations of compliance related to non-radiological site characterization and remediation, nonradiological site closure, and site restoration.
- Holtec must provide to MDPH & DEP copies of all decommissioning radiological surveys and radiochemical analysis data provided to the NRC or maintained on site as required by NRC regulations.
- MDPH and DEP shall have the right to obtain confirmatory measurements and sampling throughout decommissioning and site restoration, provided that it does not interfere with the licensee's schedule.
- MDPH and DEP must work expeditiously with Holtec to develop and review the workplans necessary to facilitate Holtec's pre- and post-closing site restoration activities at the Pilgrim Station Site.

Offsite Monitoring:

- MDPH's real-time air monitoring stations must be maintained; environmental media sampling and testing must continue on a regular basis.

- Holtec must agree to perform regular offsite radiological surveys and provide an annual report to the NRC and the Commonwealth with the location of the samples and findings. The report must be available to the public,

Onsite Monitoring:

- The Commonwealth must maintain current monitoring well program, and the addition of additional monitors as required.
 - Holtec must agree to provide the State with split samples during decommissioning and split samples from the final status surveys that are intended to document that soil and structure remediation will allow the site to be released for unrestricted use at NRC license termination and conform to state <10 ml/rem/yr. and < 4 ml/rem/yr. in drinking water sources of water.
 - Holtec must agree to perform a new hydrological assessment required when structures on the site are removed and agrees to participation of relevant state agencies in reviewing the protocol and findings.
 - Holtec must agree to add additional monitoring wells as required by the Commonwealth to make assessment when the hydrology has changed due to the removal of onsite structures.
 - Holtec must agree to remediate or remove structural materials or soil containing detectable tritium, even if the level of tritium is less than required by the NRC for license termination, as was done at Yankee Rowe.
 - Holtec must agree to remediate or remove structural materials or soil containing detectable tritium, even if the level of tritium is less than required by the NRC for license termination, as was done at Yankee Rowe.
 - Holtec must perform biannual radiological monitoring of groundwater (including both previously impacted and down gradient monitoring wells) until the NRC has released the site for unrestricted use. A post-completion monitoring plan approved by NRC, MDPH, DEP will identify the sampling locations and analytical parameters specific to each location.
 - The NRC must provide the state with splits of any samples NRC has taken as part of its oversight program and also provide MDPH with sampling locations and copies of its analysis of any and all samples taken from the site.
- a. Spent Fuel-Dry Cask & Pad Monitoring
- Holtec must agree to monitor in real-time each cask for heat, helium and radiation recognizing that the canisters and concrete outer packs are prone to cracking, exacerbated by salt corrosion. MDPH shall be linked to readings, as is the case with the current ring-monitors.
- Rationale: Measuring for heat and helium will provide early warning so that overpacks can be ordered and located onsite. Monitors used, unlike TLDs, shall provide on-going measurements rather than providing an average figure, and shall not be limited to reading only to a maximum threshold, and will read both high and low let alpha and beta.

- The pad for the casks is subject to corrosion. The Commonwealth must have the ability to inspect the pad shall receive reports documenting Holtec and NRC inspections.
- Vermont has temperature and radiation monitors. The temperature monitors are read twice a day. The radiation monitors are read once a day.

Commonwealth Settlement - What we got

Table 1 says that payments to be made to DPH are \$522,471 a year and will remain at that level until all spent fuel is in the ISFSI. Holtec plans to have moved all spent fuel into dry casks in the ISFSI by the end of 2021

If all the spent fuel is in the ISFSI, the payments to DPH will drop from \$386,236 (2022) to \$200,000 (2026), and they will remain at that level until Partial Site Release, which Holtec expects to take place in . Even after Partial Site Release, annual \$100,000 payments to DPH 000 are required for 2007 and thereafter until the Massachusetts radiological standard is met.

We seriously doubt that these payments will be enough for DPH to do what it must do to protect the public health and safety so long as spent nuclear fuel remains on the Pilgrim site.

These payments are based on several questionable, and incorrect, assumptions:

- a. The need for DPH monitoring and testing will dramatically decrease once all spent fuel is in the ISFSI.
We agree that the risk of a radiation release will be less when all spent fuel has been removed from the pool, but it does not disappear and there is a continued need for monitoring and testing until all fuel has been removed from the site.
- b. The need for testing and monitoring will continue to decrease as the dry casks in the ISFSI age, and the risk of cask failure increases.
The need for testing and monitoring will increase.
- c. Partial Site Release will further decrease the need for testing and monitoring.
Partial Site Release will not involve the ISFSI and will have no effect on the need for continued monitoring of the spent fuel in the ISFSI.
- d. Even though dry casks of spent nuclear fuel will remain in the ISFSI for many, many years, there is no need for testing or monitoring after the rest of the site has met the Massachusetts standard.
Meeting the Massachusetts standard for the rest of the site will have no effect on the need for continued monitoring of the spent fuel in the ISFSI.

License Termination Plan and Final Status Survey Report

Holtec should be required to give the Commonwealth a copy of any license termination plan or survey report provided to the NRC within five (5) days of the date on which any such plan or support was submitted to the NRC; and also must give the Commonwealth the opportunity to provide comments to the NRC with respect to any such plan.

NRC Regulations require Holtec to submit a License Termination Plan (LTP) at least 2 years before the license termination date, and, at the conclusion of decommissioning activities, to submit a final status survey report (FSSR). The NRC typically permits third parties to submit written comments with respect to the LTP.

According to the NRC, the LTP must include:

- a site characterization.
- identification of remaining dismantlement activities.
- plans for site remediation.
- detailed plans for the final radiation survey.
- a description of the end use of the site, if restricted.
- an updated site-specific estimate of remaining decommissioning costs; and a supplement to the environmental report describing any new information or significant environmental change associated with the licensee's proposed termination activities; and
- identification of parts, if any, of the facility or site that were released for use before approval of the LTP.

The FSSR must document the final radiological conditions of the site, and request that the NRC either: (1) terminate the 10 CFR Part 50 license; or (2) if the licensee has an ISFSI, reduce the 10 CFR Part 50 license boundary to the footprint of the ISFSI. The NRC will approve the FSSR and the licensee's request if it determines that the licensee has met both of the following conditions:

- the remaining dismantlement has been performed in accordance with the approved LTP; and
- the final radiation survey and associated documentation demonstrates that the facility and site are suitable for release in accordance with the LTR.



Commonwealth Settlement

Paragraph 10(m) requires Holtec to “copy DEP, DPH, and MEMA on Holtec’s formal submittals to the NRC related to decommissioning and/or site restoration, that presumably would cover the LTR and FSSR.

However, we have found nothing in the Settlement Agreement giving the Commonwealth the right to comment on either the LTR or FSSR.

NRC REGULATORY EXEMPTIONS

The NRC regularly grants exemptions from what its regulations require. The current regulation on exemptions is § 50.12 Specific exemptions.¹¹⁰ The NRC is in the process of updating its decommissioning rules, expected completed by 2022. The proposed regulatory changes would specifically allow what the NRC now allows in its regulatory exemptions.

According to the NRC, these changes:

“...are over-all cost beneficial to the nuclear power industry, federal, state and local governments and the general public and ... would result in a net averted cost from \$12.5 million (7-percent NPV) to \$32.3 million (3-percent NPV). Most of the cost savings are attributable to the relief of exemptions and amendments that licensees would typically submit to the NRC for review and approval during decommissioning.” (NRC 154)¹¹¹

The proposed changes would clearly result in significant savings to licensees and the NRC. Under current regulations, licensees are required to seek exemptions from significant regulatory requirements. As proposed, it would be unnecessary for a licensee to seek, or the NRC to review, these exemptions.

The “savings” to state and local governments and the public have nothing to do with public health and safety. Rather, the NRC found that there would be “beneficial” savings because state and local governments and the public would no longer have to spend time and money in efforts to convince the NRC and exemptions or amendments to an operating license such as Pilgrims should not be granted. Under the proposed new regulations, licensees would no longer have to submit proposed exemptions and amendments to the NRC for review, there would be no NRC review, and the public would have no opportunity to tell the NRC the other side of the story.

The NRC has already granted Important exemptions to Pilgrim, including the following: Use Decommissioning Trust Fund for spent fuel management and site restoration expenses; essentially ending responsibility for off-site emergency planning; no need to comply with cyber security requirements; and reduce offsite and on-site liability insurance.

¹¹⁰ <https://www.nrc.gov/reading-rm/doc-collections/cfr/part050/part050-0012.html>

¹¹¹ *Regulatory Analysis for Regulatory Basis: Regulatory Improvements for Power Reactors Transitioning to Decommissioning*, NRC-2015-0070; RIN 3150-AJ59. e NRC’s Adams Library, Accession Number, ML 173302A075

Using the DTF for Spent Fuel Management and Site Restoration

Title 10 of the Code of Federal Regulations, Section 50.2 (10 CFR 50.2) defines decommissioning as the safe removal of a facility from service and reduction of residual radioactivity to a level that permits termination of the NRC license. It followed that the Decommissioning Trust Fund was limited to “reduction of residual radioactivity to a level that permits termination of the NRC license.” NRC then expanded what the DTF could be used. On July 22, 2019 NRC informed Entergy that it will allow funds from the Decommissioning Trust Fund to be used for spent fuel management and site restoration.¹¹² On August 22, 2019, NRC granted Holtec Pilgrim and HDI an exemption from 10 CFR 50.82(a)(8)(i)(A) to allow them to use of a portion of the funds from the Pilgrim DTF for spent fuel management and site restoration activities consistent with the revised PSDAR and site-specific DCE dated November 16, 2018. NRC also allows use of the DTF for insurance, any emergency planning expenses, taxes, lobbying fees, and incidentals. These exemptions are effective upon the NRC’s issuance of a conforming license amendment reflecting HDI and Holtec Pilgrim as the licensees for Pilgrim, following NRC approval of the license transfer application and the Applicants’ completion of the transaction.¹¹³

Holtec’s Annual Decommissioning Funding and Spent Fuel Management Status Financial Report, as of December 31, 2019 said that:

Current decommissioning fund balance	\$979 M.
Estimate to complete decommissioning	\$1,031 M (2019 dollars)
License termination expenses	\$548M
Spent fuel management	\$443 M
Site Restoration costs	\$40 M

Before the exemption, the licensee presumably would be responsible for paying spent fuel management and soil restoration costs, about \$500 M or one-half the amount in the DTF. Holtec will recoup most of the spent fuel management costs from suing DOE for its failure to satisfy its contract to take Pilgrim’s spent fuel by 1998. Although Holtec never put a dime into the DTF, it is the public’s money, it will nevertheless pocket it.

Emergency Planning

On November 4, 2019, the NRC Commission exempted Entergy from requirements for offsite radiological emergency planning. On January 2, 2020, NRC extended the exemption to Holtec, the new owners of Pilgrim Station. These exemptions eliminate requirements for offsite radiological emergency planning, including emergency planning zones (EPZs) and all state & local funding for effectuate those plans ten months after the reactor shutdown date, April 1, 2020. NRC Commissioner Baran dissented from the majority opinion.¹¹⁴ He noted among other points

¹¹² NRC electronic Library, Adams, Accession Number ML19136A222.

¹¹³ <https://www.nrc.gov/docs/ML1919/ML19192A086.pdf>

¹¹⁴ <https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML19305C739>

that state's all hazards emergency plans did not work for radiological emergencies, and that FEMA and states such as Massachusetts opposed the exemption.

The NRC allowed the exemptions largely based on its incorrect beliefs that (1) "the very low probability of beyond-design-basis events" that could initiate a zirconium fire in the spent fuel pool and (2) the staff's conclusion that, if such an event occurred, ten hours from the loss of spent fuel pool cooling "would be sufficient time to initiate appropriate [spent fuel pool] mitigating actions" and take any necessary offsite protective actions using an all-hazards emergency plan that would allow evacuation in a timely manner.

NRC's assumptions are not supported by FEMA, MEMA, Multi-State Committee on Emergency Response Planning of the Conference of Radiation Control Program Directors (CRCPD), the States of Ohio, Massachusetts, Vermont, Connecticut and New York,¹¹⁵ the Massachusetts legislature created Nuclear Decommissioning Citizen Advisory Group,¹¹⁶ EPZ Boards of Selectmen and Emergency Planning Director,¹¹⁷ or numerous public interest groups.¹¹⁸

NRC's assumptions are not credible:

First, although the events that could cause a spent fuel pool fire or release from a dry casks may be fewer than from an operating reactor, radiological emergency planning has never been exclusively based on the probability of an accident; instead it is based on preparation to protect public health and safety in the event an accident occurs. Unless you can say there is no evacuation potential, you need radiological emergency planning.

Second, FEMA, MEMA, local emergency directors and a long list of others agree radiological disasters are unique and existing all hazards emergency plans are not sufficient. Third, absent monies for state and local radiological emergency plans that allows training, communication equipment, notification, traffic control, decontamination equipment and centers etc., NRC's statement that the public could evacuate within 10-hours is absurd on its face.

Risks and Consequences:

- A spent fuel pool fire can result from: a canister that weighs 40 tons drops in the pool during transfer and punctures the floor; a terrorist attack; malfunction of transfer equipment; an

¹¹⁵ <https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML19305C739> NRC Commissioner Baran's Dissent SECY-19-0078:Request by Entergy Nuclear Operations for Exemptions from Certain Emergency Planning Requirements for the Pilgrim Nuclear Power Station, Footnotes 5-19.

¹¹⁶ <https://www.mass.gov/orgs/nuclear-decommissioning-citizens-advisory-panel> 2018 Annual Report, pg., 16.

¹¹⁷ The Towns of Duxbury and Plymouth, for example, have made specific requests to the Pilgrim's licensee to continue financing offsite radiological planning. Documents can be provided on request. The Town of Duxbury at its Annual Town Meeting have voted in support of the licensee to continue funding radiological emergency planning until the spent fuel leaves the site—Article 29, 2014 and Article 39, 2019 available Duxbury Town Clerk.

¹¹⁸ Examples: Clean Water Action, Toxics Action Center, MASSPIRG, Greater Boston Physicians for Social Responsibility, Plymouth League of Women Voters.

earthquake. The consequences, according to studies by the MAAGO,¹¹⁹ NRC and Princeton University showed potential contamination to an area (4) times the size of Massachusetts and hundreds of billions in damages and cancers.¹²⁰

- A spent fuel dry cask disaster can result from acts of malice; stress corrosion cracks in the 0.5" thin canister shell; and an earthquake. Each of the 61 dry casks contain 68 spent fuel assemblies, and ½ the Cesium-137 released at Chernobyl.
- A fire onsite in contaminated building during decommissioning can spread radiation offsite.

Evacuation in the event of a radiological accident was impossible when Pilgrim was operating, and without off-site emergency planning it is even less adequate today.



Consequences Extend Beyond the 5-town, 10-mile Emergency Planning Zone

First, MEMA will lose its yearly assessment needed to fund its radiological emergency planning department. Plans and equipment are needed not only for the towns close to the reactor but also for communities impacted that are downwind but further distant - well beyond 10 miles.

¹¹⁹ The Massachusetts Attorney General's Request for a Hearing and Petition for Leave to Intervene With respect to Entergy Nuclear Operations Inc.'s Application for Renewal of the Pilgrim Nuclear Power Plants Operating License and Petition for Backfit Order Requiring New Design features to Protect Against Spent Fuel Pool Accidents, Docket No. 50-293, May 26, 2006 includes a Report to The Massachusetts Attorney General On The Vulnerability of Pilgrim's Spent Fuel Pool- Risks and Risk-Reducing Options Associated with Pool Storage of Spent Nuclear Fuel at the Pilgrim and Vermont Yankee Nuclear Power Plants, Gordon Thompson, May 25,2006.

2. References: Risks and Risk-Reducing Options Associated with Pool Storage of Spent Nuclear Fuel at the Pilgrim and Vermont Yankee Nuclear Power Plants-A report for the Massachusetts Attorney General, Dr. Gordon Thompson, May 25, 2006; Comments on the US Nuclear Regulatory Commission's Draft Consequence Study of a Beyond-Design Basis Earthquake Affecting the Spent Fuel Pool for a US Mark I Boiling Water Reactor, Dr. Gordon Thompson, August 1, 2013; Environmental Impacts of Storing Spent Nuclear Fuel and High-Level Waste from Commercial Nuclear Reactors: A Critique of NRC's Waste Confidence Decision and Environmental Impact Determination, Dr. Gordon Thompson, Feb 6, 2009. Documents available on NRC Electronic Library, ADAMS

¹²⁰ Richard Stone, "Spent fuel fire on U.S. soil could dwarf impact of Fukushima," *Science*, May 24, 2016. (available at: <http://www.sciencemag.org/news/2016/05/spent-fuel-fire-us-soil-could-dwarf-impact-fukushima>)

Fearing a spent fuel pool fire at Fukushima, the US State Department recommended citizens within 50-miles of Fukushima evacuate. The outer ring on the map below marks 50-miles from Pilgrim. The Japanese Prime Minister, Nato Kan, said if Fukushima's spent fuel pool went, Tokyo, 149 miles from Fukushima, would need to be evacuated and the Japanese economy would crumble.



Second, citizens close to Pilgrim's site in a disaster will eventually evacuate and bring radiation with them on their cars, bodies, personal belongings, and pets. No planning means no decontamination centers. Therefore, where the evacuees travel, stop, washup, and lodge will become contaminated too - spreading contamination through the state and neighboring states.

Third, absent timely evacuation and decontamination, the probability of radiation-linked health impacts increases - cancers, birth defects and reproductive disorders. These will be costly to the state in health care and employment losses.

Who should Pay for Radiological Emergency Planning?

Neither the Commonwealth nor the impacted towns can afford to pay; nor should they pay. It is after all a risk brought on by one party – Pilgrim's licensee. Now that off-site radiologically emergency planning has officially ended due to NRC's decision, the State will lose over a million dollars a year and towns in Pilgrim's emergency planning zone, that annually negotiate funding with Entergy, will lose approximately \$85,000/yr. to \$295,000/yr. (depending on the town) plus monies for training and equipment.

Holtec Pilgrim LLC, Pilgrim's owner, and Pilgrim Decommissioning International LLC, Pilgrim's operator can well afford to pay. Holtec bought the site for roughly \$1,000, received ratepayers Decommissioning Trust Fund (\$1.03 B) to decommission the site, and is likely to make a profit of \$800M and not complete the job. The Commonwealth should not be stuck with the bill to complete the work.

Commonwealth Settlement Agreement

Nothing in the Settlement Agreement requires payment to any of the towns in the EPZ to cover their emergency planning costs – that they will continue to incur until all spent nuclear fuel has been removed from the Pilgrim site.¹²¹

Section IV, Payments, Radiation Monitoring, ISFSI, and Waste Transportation, Para. 18 requires Holtec Pilgrim/HDI to “make payments to ...MEMA [for its operating expenses associated with decommissioning planning, decommissioning activities, and the decommissioning process in accordance with ...Table 2 (MEMA).”

As with the Table 12 payments to DPH, the Table 2 payments are based on questionable assumptions and decrease over time.

2021 - \$1,170,864 or \$500,000 depending on whether federal emergency planning requirements are in effect.

2022 - \$275,000 if all spent fuel has been moved to the ISFSI.

2023-2027 - \$50,000 until Partial Site Release.

2028 - \$32,500 – a half year of decommissioning costs and a half year of ISFSI costs.

2029 until License Termination - \$15,000.

MEMA has an “all hazards plan,” but that plan is not adequate for a radiological emergency. Even Holtec admits that spent nuclear fuel will remain on site until at least 2063. Does anyone seriously think that MEMA can provide the needed plans and protection for \$15,000?

The payments to MEMA under the Settlement Agreement reflect several questionable assumptions:

- i. The costs of MEMA being prepared for a potential radiological emergency will dramatically decrease – from \$500,000 in 2021 to \$250,000 in 2022 (Holtec’s original goal to move spent fuel into dry casks), and then to \$50,000 for 2023-2027 (Holtec’s projected date for Partial Site Release, and to only \$15,000 after 2028.
- ii. Once spent fuel has been moved into dry casks, it incorrectly assumes that there is little or no risk of a radiological release no matter how long the cask remains on site – even though there is no way to effectively inspect the condition of its thin-wall canister and no currently available technology to replace a failed or failing canister.
- iii. It incorrectly assumes that a dry cask failure will have little potential effect on the public health and the economy even though each dry cask contains half as much Cesium-137 as the total released at Chernobyl.

¹²¹ During operations and post operations, Pilgrim’s owner negotiates annual payments for radiological emergency planning expenses with the state and with each EPZ community. Holtec agreed to pay Duxbury \$65,000 but only for one year, 2020 We believe Kingston and Carver received the same. Marshfield has sued Holtec. Plymouth received considerably more but less than it wanted.

- iv. Even though MEMA's all-hazards emergency plan does not provide for radiological emergencies, once spent fuel has been moved into dry casks, all MEMA needs to do to protect the public is to review documents, conduct communication checks, and follow what is going on at Pilgrim and what DOE may be doing.
- v. Although Pilgrim's spent nuclear fuel will remain on site indefinitely, possibly for hundreds of years, all MEMA needs to do after 2029 is to participate in drills and exercises and security meetings.

Settlement Agreements with EPZ Towns, Reception Center Communities and Holtec

The five towns within Pilgrim's Emergency Planning Zone and the three towns hosting Reception Centers (RC) negotiated separate agreements with Holtec Pilgrim/HDI.

Carver: \$75,000 for three months of EPZ and to unwind the RERP and breakdown the alternate EOF

Duxbury: \$63,750, broken down as \$21,250 for the three months of the EPZ in 2020 and \$42,500 to unwind the RERP. Also, it says that if Duxbury provides mutual aid to the site at any point during the 8-year decommissioning and its equipment becomes contaminated Holtec will provide replacement at no cost to the community.

Kingston: \$63,750, with the same break down and language as Duxbury.

Marshfield: \$120,196.21 for three months of EPZ payment. Marshfield has chosen to go challenge Holtec in court.

Plymouth: It has a 2 ½ year agreement through June 30, 2022 as the host community for Police and Fire services. Breaks down as \$150,000 1/1/20 to 6/30/20 and then \$230,000 the following two years 7/1/20-6/30/21 and 7/1/21-6/30/20

Braintree RC: \$42,000 Three months plus costs to breakdown the program

Taunton RC: \$56,500 three months plus costs to breakdown the program

Bridgewater RC: \$57,500 three months plus costs to breakdown the program

State Legislation

Two bills are in the State Legislature, before House Ways and Means, July 2020. The Commonwealth and individual town settlement agreements likely will make it more difficult for the bills to pass. We encourage the towns to work with their state representatives.

- a. H.3492, An Act relative to community radiological emergency response funds. An amended version, would require the licensee of each existing and proposed nuclear power plant in the

Commonwealth, [to]fully fund offsite radiological emergency response expenses incurred by the Commonwealth or a municipality post closure until all the reactor's spent fuel leaves the site.

- b. H. 1970, An Act to Amend Section 5 K E of Chapter 111 would permit MDPH to assess the operators of existing and proposed nuclear power plants during operations and post closure not less than \$500,000 per facility. MDPH shares radiological emergency planning responsibilities with MEMA.

Cyber Security

On January 2, 2020, the NRC exempted Pilgrim from the requirement to defend against cyber-attacks.¹²² The exemption becomes effective 10 months after the cessation of power. This means digital security equipment needed to protect the spent nuclear fuel is now vulnerable.

The New York Times in 2017 reported that *Hackers Are Targeting Nuclear Facilities, Homeland Security Dept. and F.B.I. Say*.¹²³ Terrorist threats have increased, not decreased.

Russian Cyber Attacks Call for Stringent Security Standards at US Nuclear Plants, But Plant Owners Want Them Weakened, Union of Concerned Scientist, Dr. Edwin Lyman. ¹²⁴ The press release explains the threat to spent fuel storage from cyber-attacks at decommissioned plants such as Pilgrim.

WASHINGTON (March 16, 2018)—Yesterday, the Department of Homeland Security and the Federal Bureau of Investigation officially confirmed that Russian hackers have been targeting US nuclear power plants and other critical facilities since at least 2016. Regardless, the US nuclear industry has been pressuring the Nuclear Regulatory Commission to relax its cyber security standards.

Below is a statement by Edwin Lyman, a senior scientist at the Union of Concerned Scientists.

“The Department of Homeland Security alert is a stark reminder that nuclear power plants are tempting targets for cyber attackers. Although the systems that control the most critical safety equipment at US nuclear plants are analog-based and largely immune to cyber-attacks, many other plant systems with important safety and security functions are digital and could be compromised. For instance, electronic locks, alarms, closed-circuit television cameras, and communications equipment essential for plant security could be disabled or reprogrammed. And some plants have equipment, such as [cranes that move highly radioactive spent fuel](#), that utilize computer-based control systems that could be manipulated to cause an accident.

¹²² NRC Electronic Library, Adams, Accession Number ML19276C420

¹²³ <https://www.nytimes.com/2017/07/06/technology/nuclear-plant-hack-report.html>

¹²⁴ <https://ucsusa.org/about/news/russian-cyber-attacks>

“Reports that the recent attacks on nuclear power plants were limited to their administrative systems and did not affect systems that have direct safety and security functions are not cause for complacency. Sophisticated cyber intruders could access administrative systems to obtain—or plant—compromising information to coerce key personnel to assist in a damaging attack.

“Therefore, the nuclear industry’s [petition to limit the scope](#) of Nuclear Regulatory Commission cyber-protection safeguards to only those systems with a direct impact on safety is foolhardy at best and, at worse, downright dangerous. The NRC has been deliberating over the industry’s ill-conceived proposal for nearly four years. In light of the growing cyber threat to nuclear plants highlighted by yesterday’s alert, the agency should now simply reject it.”

Settlement Agreement

Section IV, Paragraph 23 is concerned with cybersecurity, and requires HDI, “within thirty (30) days of the Effective Date, certify to the implementation of a cybersecurity plan at Pilgrim, which shall, at the very least, include [10] cybersecurity measures.” In substance, the ten measures seem to be what should be standard business practice, e.g., eliminating exposure of Critical Digital Assets to external networks, implementing network segmentation, using secure remote access methods, and using only strong passwords.

Liability Insurance - Price Anderson

Off-Site Liability Insurance: On Jan. 6, 2020 the Nuclear Regulatory Commission approved Holtec’s request to reduce Pilgrim Nuclear Power Station’s required level of primary offsite liability insurance from \$450 million to \$100 million and completely eliminated the requirement for PNPS to have any secondary financial protection.¹²⁵ The amount now required is peanuts. For example, according to the Duxbury Assessors Office, the Town’s total assessed value of real and personal property for FY 2019 is \$4,264,085,075 – more than 42 times what Holtec says is enough insurance.

Holtec argued, and NRC concurred, that this reduction in required insurance is justified because there is less risk of an accident once a reactor is permanently closed. However, although the probability of an accident is reduced, the risk does not disappear. Any such accident will have significant offsite economic consequences. Until all spent fuel has been moved from the spent fuel pool into dry casks, the risk of a spent fuel pool fire remains, resulting from acts of malice, a fuel handling accident during transfer, equipment failure or human error. The NRC estimated that the offsite consequences of a major pool fire could include contaminating as much as 38,610 square miles of land, forcing the evacuation of millions, and trillions of dollars in damages. There is less risk after all the spent fuel has been moved into dry casks; but dry casks are subject to sabotage, corrosion, and leaks that cannot be repaired. Each of the 62 or more dry casks that

¹²⁵ NRC Electronic Library, Adams, Accession Number ML 19282A192

will remain indefinitely at Pilgrim will contain more than half as much Cesium-127 as was released at Chernobyl. Offsite consequences may also result from a significant fire in a contaminated building or from leakage of contaminants into Cape Cod Bay.

On-Site Liability Insurance: NRC accepted Holtec's request to reduce on-site liability insurance from \$1.06 Billion to \$ 50 million based on same argument presented for the reduction of off-site insurance.

PROTECTING OUR COMMUNITIES - PRIORITIES

The primary goal of decommissioning is protection of the public and the environment until Pilgrim or any site has been completely decommissioned, the site has been cleaned-up and restored, and no spent fuel or other high-level waste remains on the site. This is a multi-faceted issue. These were the priorities Pilgrim Watch advocated for, but were not achieved, and hopefully will be useful at other sites undergoing decommissioning.

1. Financial

- a. **Reporting:** Holtec¹²⁶ shall send the Massachusetts Attorney General any report provided to the NRC with respect to 10 C.F.R. 50.75 or 50.82(a)(8)(v) within ten (10) days of the date upon which it was provided the NRC.

Not later than March 31st of each calendar year until one calendar year after all Pilgrim NRC licenses have been terminated, Holtec also shall send the Massachusetts Attorney General a report that includes the following information:

- i. The current status of the Decommissioning Trust Fund.
- ii. The amount spent on each decommissioning activity, spent fuel storage or management, or site restoration, and the source of the money spent.
- iii. The estimated amount to complete each such decommissioning activity, and the expected source of money to complete such activities.
- iv. An audited listing of all expenditures and withdrawals from any decommissioning fund during the previous calendar that includes an itemization of any project, work, service, or activity for which any expenditure was made.
- v. The balances of any decommissioning funds as of the end of the previous calendar year.
- vi. An estimate of the costs to complete decommissioning (license termination), and complete site restoration, of the Pilgrim site.

As used in this section 1(a), “decommissioning activity” means any activity that is described in any Holtec PSDAR for Pilgrim or that is within the scope of the NRC’s definition of “decommissioning”; and “site restoration” means restoring and remediating the Pilgrim site to a condition such that (a) no portion of the site has a radiation level greater than that set forth in 3(b) below, (b) all hazardous non-radioactive materials have been removed from the

¹²⁶ As used herein, “Holtec” means, collectively, Holtec International together with its subsidiaries and affiliated companies; and “Licensees” means Holtec Pilgrim and Holtec Decommissioning International.

site, and (c) Massachusetts and local laws, ordinances, and regulations do not restrict the use of the site.

- b. **DOE Recovery:** All spent fuel management costs recovered from DOE must be put into the Decommissioning Trust Fund and used only to pay decommissioning costs.
- c. **Parent Company Guarantee:** Holtec International (not an LLC subsidiary) must provide a Parent Company Guarantee of not less than \$500 million, after the payment of all taxes.
Note: This is slightly less than the \$515 funding assurances provided in Section J of the current license, except that the parent (that has assets) rather than an LLC subsidiary must provide it.
- d. **Monitoring:** Until all spent nuclear fuel has been moved into dry casks in the ISFSI, Holtec shall make annual payments to the Massachusetts Department of Public Health (MDPH) to defray the costs incurred by the department's radiation control program for offsite and onsite radiological monitoring and testing (including funding the state lab). With respect to 2019, the payment shall be \$500,000. With respect to each subsequent calendar year, the payment shall be in an amount equal to the costs incurred in the prior calendar year by the department's radiation control program. No decommissioning trust funds shall be used to make any of these payments.
- e. **Emergency Planning:** Until the calendar year after all spent fuel has been moved into dry casks, Holtec shall make annual payments to the Massachusetts Emergency Management Agency (MEMA), MDPH Radiation Control Program, and to each town any portion of which is within 10 miles of the Pilgrim site, to defray the costs incurred by MEMA, MDPH, and each of such towns with respect to provide emergency radiological planning. With respect to 2019, the payment shall be the amount paid by Entergy with respect to emergency planning for the calendar year 2018. With respect to each subsequent calendar year, the payment shall be in an amount equal to the costs incurred in the prior calendar year by MEMA and the respective towns. Holtec will continue to make annual payments to MEMA, MDPH, and each town within 10 miles of the reactor and the Commonwealth at a reduced level until all spent nuclear fuel has been removed from the site. No decommissioning trust funds shall be used to make any of these payments.

2. Environmental

- a. **Radiological Standard:** The maximum residual radiation level that is distinguishable from background radiation shall be as low as reasonably achievable and shall result in a total effective dose equivalent that is less than 10 mrem/yr.; for drinking water sources the maximum radiation level shall be less than 4 mrem/yr. This standard shall apply to each portion of the site; it is not an average over the site.

b. Dose Assessment: The standard will be protective of public health and safety only if the models used to assess dose during remediation are conservative. Dose rates shall be determined using the Resident Farmer Scenario and Basement Inventory Model.

c. Rubblization: All structures, components and soil having any detectible level of radiation distinguishable from background radiation shall be removed from the site. No structure shall be rubblized and buried on site.

Note: Rubblization is a process in which above-grade structures are demolished into rubble and buried in the structure's foundation below ground. The site surface is then covered, regraded, and landscaped for unrestricted use. It poses a threat to public health and decreases the long-term stability of the land. Instead, the demolished rubble should be shipped to a licensed disposal site.

d. Early Site Assessment: Holtec will complete a thorough assessment of the Pilgrim site for the impacts of climate change on Pilgrim's site (including, but not limited to, flooding resulting from sea level rise, severe storms coinciding with high tides and exceptional wave heights, heavy precipitation, rising groundwater tables, and increased acidity contributing to corrosion of any underground structures), and an assessment of radiological materials and non-radioactive hazardous materials, not later than 31 December 2019 or 3 months after the license transfer, whichever comes first.

In advance of such assessment, Holtec will provide the Commonwealth with the protocol for its reviews and will give the Commonwealth the opportunity to provide comments with respect the protocol. The Commonwealth also shall be given access to the site and the opportunity to take and analyze samples. Within 30 days following completion of the assessment, Holtec will give the Commonwealth a detailed report of the results of the assessment, including all data and other information learned during or as a result of the assessment.

e. Interim Inspection and Sampling: Holtec will give the Commonwealth access to the Pilgrim site during decommissioning to take samples; accompany NRC in its inspections; and be given split samples of any samples taken by Holtec or NRC.

f. Final Environmental Site Assessment: Holtec will give the Commonwealth a copy of any license termination plan provided to the NRC within five (5) days of the date on which any such plan was submitted to the NRC; and will give the Commonwealth the opportunity to provide comments to the NRC with respect to any such plan. Holtec also will give the Commonwealth access to the Pilgrim site to the extent reasonably required for Commonwealth personnel to accompany NRC personnel visiting the site in connection with any license termination plan, and to take and test samples.

g. Site Restoration: All activities conducted at the Pilgrim site shall comply with applicable federal, state and local environmental and human-health based laws, standards and regulations, to the extent such laws standards and regulations do not conflict with the

standards identified in this MOU. All subsurface voids shall be filled, and the land shall be regraded and reseeded. All fill material must comply with the approved radiological and non-radiological remediation standards.

- h. Hazardous (non-radiological) Waste:** All hazardous waste shall be removed from the site to whatever level is required by federal, state, or local laws or regulations for unrestricted use of the site.
- i. Environmental Monitoring:** The Massachusetts Department of Public Health (MDPH) must continue offsite and onsite radiological monitoring until all spent nuclear fuel has been removed from the Pilgrim site. Holtec shall work cooperatively with MDPH and DEP to develop appropriate protocols related to non-radiological remediation and site restoration for information sharing, obtaining samples from onsite environmental media, conducting site visits and inspections, site characterization, remediation, site restoration, and notifications. Holtec shall pay the costs of such monitoring as set forth in 1(d), above.
- j. Offsite-Emergency Planning:** State and local (i.e., communities within 10 miles of Pilgrim) off-site radiological emergency planning must continue at its current level until all spent fuel is removed from the pool and placed in hardened dry casks, except that potassium iodide provisions may be eliminated 90 days after the reactor is de-fueled. Thereafter, it must continue at a reduced level until all spent nuclear fuel has been removed from the site. Holtec shall pay the costs of such monitoring as set forth in 1(e), above.
- k. Spent Fuel-Dry Cask & Pad Monitoring:** Holtec agrees to monitor in real-time each cask for heat, helium and radiation recognizing that the canisters and concrete outer packs are prone to cracking, exacerbated by salt corrosion, and to provide real-time monitoring data to MDPH. The Commonwealth shall have the ability to inspect the pad and casks and shall receive a copy of any report relating to any inspection of the pad or casks by Holtec or the NRC within ten (10) days after the date of any such report.
- l. ISFSI Security:** To reduce the potential of a line-of-site attack, either the casks shall be stored in a building for additional security and environmental protection or, at minimum, a barrier not less than five (5) feet higher than the height of any cask in the ISFSI shall be constructed around the ISFSI. While fuel remains onsite, security shall include: a protected area around the ISFSI, concrete vehicle barriers; lighting; cameras and intrusion detection equipment; and cyber security measures.

Note: On December 15, 2017, Pilgrim received an exemption until December 31, 2020 for completion of Milestone 8. Milestone 8 should be implemented. Cyber threats may impact or disable control of lighting, cameras, intrusion detection equipment, and communications equipment.

3. General

- a. **Removal of Spent Fuel from Spent Fuel Pool:** All spent fuel now in the reactor or spent fuel pool will be moved into dry casks, and all dry casks of spent nuclear fuel will be placed in the new ISFSI, by the end of 2021
- b. **Plant Decommissioning:** Active decommissioning of the Pilgrim site (except for the ISFSI and switchyard) shall begin no later than 31 December 2019 and shall continue until completion.
- c. **Site Restoration:** Site restoration of the Pilgrim site (except for the ISFSI and switchyard) shall be accomplished during the period of Plant Decommissioning. Restoration of the ISFSI site shall be accomplished no later than one (1) year after all casks of spent nuclear fuel have been removed from the Pilgrim site.
- d. **ISFSI Decommissioning:** Decommissioning of the ISFSI shall begin no later than six (6) months after DOE removes all dry casks of spent nuclear fuel from the Pilgrim site. ISFSI decommissioning and restoration of the ISFSI site shall be completed within a period of no longer than one (1) year after all dry casks have been removed from the site.

State & Public Participation

The Union of Concerned Scientists asked, *What can ... the public do to improve nuclear safety?* They quipped that, *"It sometimes seems that NRC stands for Nielsen Ratings Commission. Letters to the editor and letters to elected officials urging them to pressure the NRC to fix the safety problems it has identified will hasten progress down that path."*

The public, the Panel, the Governor, and the Attorney General should follow this advice and take advantage of NRC Rules provide for public participation via rulemaking, licensing, enforcement, and hearings. The following NRC links provide basic information: <http://www.nrc.gov/public-involve.html>

More important, likely with greater effect, the Commonwealth and the Town of Plymouth should exercise the powers they now have to take actions relative to operations and decommissioning. Their existing powers are considerably greater than many assume.

Although the Atomic Energy Act (AEA) gives the NRC authority and responsibility with respect to regulation of "the construction and operation of" a nuclear power plant, the NRC's exclusive authority is not unlimited. Rather, it extends *only* to the "field of nuclear safety regulation." *Pacific Gas & Elec. Co. v. State Energy Resources Conservation and Development Comm'n*, [461 U.S. 190](#), 216 (1983).

Contrary to what many apparently assume, Massachusetts and other states have the right to "regulate [nuclear] activities for purposes other than protection against radiation hazards." 42 USC Sec. 2021(k). "The [NRC]...does not purport to exercise its authority based on economic considerations... Congress intended the States to continue to make these judgments" (*Pacific Gas & Electric*, 461 U.S. at 207-208); and a state or local law grounded in economic purposes "lies outside the occupied field of nuclear safety regulation." (*Pacific Gas & Electric*, 461 U.S. at 216).

Massachusetts also has rights, delegated to it by Congress, under the Clean Air Act and Clean Water Act.

The basic legal principles, recently reaffirmed by Judge (now Justice) Gorsuch in *Cook v. Rockwell International Corp.*, 790 F.3d 1088 (10th Cir. 2015), are that a court should presume that there is no preemption, and that a court has a duty to read a statute in a way that disfavor's preemption, a duty that "is only 'heightened' where (as here) the area of law in question is one of traditional state regulation like public health and safety;" or, as in *Pacific Gas & Electric*, economics.

In short, Massachusetts has the right, and the public should lobby the Governor and his Administration, Attorney General and the Great and General Court, to do what is needed, to ensure that Massachusetts interests are protected.

Nuclear Decommissioning Citizens Advisory Panel

The Massachusetts legislature established the panel, section 14, Chapter 188, Acts of 2016. Its members include: (6) state officials; (8) members appointed by state officials; (2) Entergy officials; (1) representative from the Utility Workers Union America Local 369 who either works or worked at Pilgrim; (1) representative from the Old Colony Planning Council; and (3) appointees from the Town of Plymouth. The committee is advisory. Its duties include: hold at minimum 4 public meetings a year; issue an annual report; serve as a conduit for public information; encourage community involvement; receive reports on decommissioning and the decommissioning trust fund. It is unfunded.

The Panel currently meets once a month (except for August and December) in Plymouth for about 2 hours. The meeting dates and agenda are publicly available –see the Panel’s website here.

<https://www.mass.gov/orgs/nuclear-decommissioning-citizens-advisory-panel>

The Panel’s enabling legislation requires a vote of a majority of all its members to take any action. This has presented a problem. Mptions from the floor often are not able to reach a vote from the majority of NDCAP’s membership because either all members are not present and/or members representing the Adminsitration cannot vote without prior approval of the Administration. At the end of the meeting comments and questions from the public are welcomed.

Section 14 of Chapter 188 of the Acts of 2016

SECTION 14. (a) There shall be created a nuclear decommissioning citizens advisory panel which shall consist of the following members or their designees: the secretary of health and human services, who shall serve ex officio; the secretary of energy and environmental affairs, who shall serve ex officio; the commissioner public utilities, who shall serve ex officio; the secretary of housing and economic development, who shall serve ex officio; the director of the Massachusetts Emergency Management Agency; 1 member from the Plymouth Nuclear Matters Committee as appointed by the Plymouth Board of Selectmen; 1 member from Massachusetts Department of Public Health Radiological Control Program appointed by the Bureau of Environmental Health; 1 representative of the Old Colony Planning Council or designee, selected by the Council; 2 representatives of the Town of Plymouth as selected by the Plymouth Board of Selectmen; 2 members appointed by the Governor; 2 members appointed by the Speaker of the House; 1 member appointed by the minority leader of the house of representatives; 2 members appointed by the President of the Senate; 1 member as appointed by the minority leader or the senate; 2 representatives of the Pilgrim Nuclear Power Station, also known in this section as PNPS or Station, as selected by the owner of the station; and a representative of the Utility Workers Union of America, UWUA, Local 369 selected by the UWUA who shall be a present or former employee at the PNPS.

(b) Each appointing authority initially shall appoint a member for a 3-year term and a member for a 4-year term. Subsequent appointments under this subdivision shall be for terms of 4 years. Ex officio members shall serve for the duration of their time in office or until a successor has been appointed.

(c) The commissioner of public utilities shall serve as the chair until the panel elects a chair or co-chairs under subsection (d).

(d) The panel annually shall elect a chair or co-chairs, and a vice chair, for 1-year terms commencing with its first meeting following the effective date of this section.

(e) A majority of the panel's members shall constitute a quorum. The panel shall act only by vote of a majority of its entire membership and only at meetings called by the chair or a co-chair or by any 5 of the members. The person or persons calling the meeting shall provide adequate notice to all its members.

(f) Members of the panel who are not ex officio members, employees of the Commonwealth of Massachusetts, representatives of the PNPS, or members representing towns outside Massachusetts, and who are not otherwise compensated or reimbursed for their attendance shall be entitled to \$50 per diem and their necessary and actual expenses.

(g) The executive office of energy and environmental affairs shall furnish administrative support for the panel.

(h) The chair shall: (1) manage the provision of administrative support to the panel, including scheduling meetings and securing meeting locations, providing public notice of meetings, producing minutes of meetings, and assisting in the compilation and production of the panel's annual report; (2) keep the panel informed of the status of matters within the jurisdiction of the panel; (3) notify members of the panel in a timely manner upon receipt of information relating to matters within the jurisdiction of the panel; (4) upon request, provide to all members of the panel all relevant information within the control of the department of public utilities relating to subjects within the scope of the duties of the panel; (5) provide workshops or training for panel members as may be appropriate; and (6) hire experts, contract for services, and provide for materials and other reasonable and necessary expenses of the panel as the commissioner may consider appropriate on request of the panel from time to time.

(i) The Panel shall serve in an advisory capacity only and shall not have authority to direct decommissioning of the PNPS. The duties of the panel shall be: (1) to commence public meetings beginning on or about June 1, 2017, at a frequency of quarterly until the shutdown of the Pilgrim Nuclear Power Station (PNPS) for the purpose of discussing issues related to decommissioning planning activities; (2) to hold a minimum of four public meetings each year for the purpose of discussing issues relating to the progress of decommissioning of the PNPS beginning on or about June 1, 2019, or when the PNPS permanently ceases power operations; provided that the panel may hold additional meetings; (3) to advise the governor, the general court, the agencies of the commonwealth, and the public on issues related to the decommissioning of the PNPS, with a written report being provided annually to the governor and to the energy committees of the General Court; (4) to serve as a conduit for public information and education on and to encourage community involvement in matters related to the decommissioning of the PNPS and to receive written reports and presentations on the decommissioning of the Station at its regular meetings; (5) to periodically receive reports on the Decommissioning Trust Fund and other funds associated with decommissioning of the

PNPS, including fund balances, expenditures made, and reimbursements received; (6) to receive reports regarding the decommissioning plans for the PNPS, including any site assessments and post-shutdown decommissioning assessment reports; provide a forum for receiving public comment on these plans and reports; and to provide comment on these plans and reports as the panel may consider appropriate to state agencies and the owner of the PNPS and in the annual report described in clause (3).

On the July 1, the NRC Commission approved a Letter to the Honorable John A. Barrasso and Frank Pallone, Jr., submitting the report on Best Practices for Establishment and Operation of Local Community Advisory Boards During Decommissioning Activities. The report is now publicly available and is posted on the NRC public website.¹²⁷

Legislation

Each year a number of nuclear-related bills are introduced to the State Legislature. Legislator's contact information, Committees, hearings before committees, laws, and bills filed can be located here <https://malegislature.gov/>.

In 2019 bills related to decommissioning included: requiring the licensee to continue to fund radiological emergency planning expenses; requiring a licensee of either an operating or decommissioned reactor to fund increases to Massachusetts Department of Public Health's Radiation Control Department; require any commercial nuclear power station that on or after January 1, 2019, used nuclear fuel to generate electric power pay an annual \$25,000,000 post-closure funding fee to be placed in a Postclosure Trust Fund in the office of the State Treasurer. After the site has been completely decommissioned (as defined in the bills), any excess in the fund will be returned to the plant owner, with interest.

¹²⁷ ML20122A112 <https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20122A112>

SUMMARY OF SETTLEMENT AGREEMENT

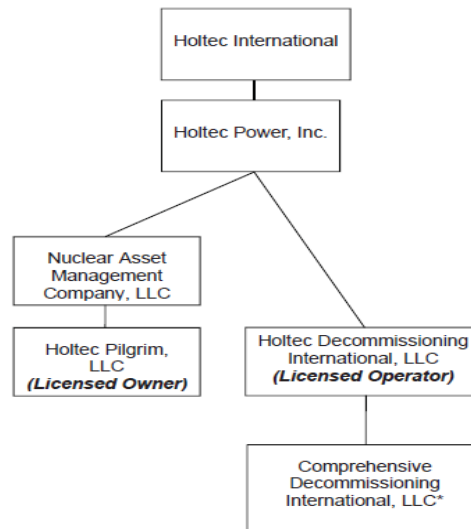
On June 16, 2020, the Commonwealth of Massachusetts reached an agreement with two subsidiaries of Holtec International, Holtec Decommissioning International, LLC (HDI) and Holtec Pilgrim LLC, to settle the Commonwealth’s challenge to transferring Pilgrim Nuclear Power Station ownership and licenses from Entergy to these two Holtec subsidiaries.¹²⁸

The settlement covers many topics, including financial assurance, site restoration standards, funding commitments to state agencies, and security. As part of the settlement, the Commonwealth agreed to withdraw its contentions with NRC to intervene and request for hearing in Pilgrim’s license transfer agreement and its pending Petition with the US Court of Appeals for the DC Circuit. Pilgrim Watch had no part in the settlement; and has not withdrawn its petitions to intervene in the license transfer proceeding.

The AGO spent months negotiating this agreement and achieved a number of important goals. Unfortunately, Holtec was interested only in protecting its bottom line, and refused to agree to much that we need.

I. Holtec Pilgrim and Holtec Decommissioning International

Figure 2: Simplified Organization Chart (Post-Transfer)



Note:

* Comprehensive Decommissioning International, LLC ("CDI") is jointly owned by Holtec (through its subsidiary, Holtec Decommissioning International, LLC ("HDI"), the majority owner) and SNC-Lavalin (through its subsidiary, Kentz USA, the minority owner). HDI will contract with CDI through a Decommissioning General Contractor Agreement.

¹²⁸ https://www.mass.gov/doc/pilgrim-settlement-agreement/download?_ga=2.210885404.821414289.1594495256-2049834566.1591123061

The figure above is from Holtec's request that the NRC allow it to buy Pilgrim ("Holtec LTA"). Holtec Pilgrim and Holtec Decommissioning International are both Limited Liability Companies ("LLC's), as is Comprehensive Decommissioning International (CDI). According to the Holtec LTA, CDI will decommission Pilgrim, HDI will oversee the decommissioning, and Holtec Pilgrim will pay the costs out of the Decommissioning Trust Fund.

Holtec International chose this corporate structure for a reason – to protect its assets. Because Holtec Pilgrim and HDI are LLC's, neither Holtec International, nor Holtec Power Inc., nor Nuclear Asset Management Company, LLC, nor SNC-Lavalin nor SNC's subsidiary Kentz USA, have any financial responsibility if Holtec Pilgrim and HDI do not have sufficient funds to pay the costs of decommissioning, or any liability if some aspect of decommissioning goes wrong.

Only Holtec Pilgrim and HDI are licensed by the NRC. The NRC has no authority to require Holtec International, Holtec Power, Inc. Nuclear Asset Management Company, SNC-Lavalin, Kentz USA or any other entity that is not a licensee to provide any funds.

II. FINANCIAL ASSURANCE (Pars. 3-9)

Holtec Pilgrim's only assets are the Decommissioning Trust Fund, established by Massachusetts ratepayers when the reactor initially began operations, and Pilgrim's property. HDI has no apparent assets.

If the DTF runs out of money, can the Commonwealth make Holtec Pilgrim and HDI live up to the financial assurance obligations they agreed to in the settlement agreement? More simply stated, how can the Commonwealth get "blood out of a stone?"

What are the financial assurances in the agreement?

The Settlement Agreement requires Holtec Pilgrim to keep at least **\$193.3 million** in the Trust Fund until NRC approves HDI's application for partial site release (all except the ISFSI) of the property for unrestricted use meeting NRC's regulation 10 C.F.R. § 50.83.¹²⁹ After partial site release, Holtec Pilgrim must maintain **\$38.4 million** in the DTF until the spent fuel is removed from the site. (Settlement, 3(a)(1))

If the amount in the DTF falls below those levels, the Settlement Agreement requires Holtec Pilgrim and HDI to "use money equivalent to that which it recovers through litigation or settlement from DOE." If what Holtec Pilgrim and HDI have recovered from DOE is insufficient to make-up any shortfall, the Settlement requires them to "utilize funds from an alternative source

or other financial assurances of equivalent value in the form of a parent guarantee, letter of credit, or other mutually acceptable instrument.”

General Comments:

- d. **Legislation: S.1992/S.1948 An Act to Establish Funding to Provide Postclosure activities.** Both bills require that the Commonwealth establish a Postclosure Trust Fund to ensure that there will be money available for a complete and timely decommissioning of the Pilgrim, and of any future commercial reactor in the Commonwealth. Each would require: any commercial nuclear power station that on or after January 1, 2019, used nuclear fuel to generate electric power pay an annual \$25,000,000 post-closure funding fee to be placed in a Postclosure Trust Fund in the office of the State Treasurer. After the site has been completely decommissioned (as defined in the bills¹³⁰), any excess in the fund will be returned to the plant owner, with interest.
- e. The fundamental problem with the Financial Assurance Requirements of the Settlement Agreement is that only HDI and Holtec Pilgrim are required to put any money into any fund, and that they are the Holtec entities that are most likely to run out of money. If there is not enough money in the DTF (that is essentially their only asset), neither will have available money to deposit into any trust fund.

Comments on Partial Site Release- \$193.3 Million (Par. 3-a)

- f. We do not know where \$193.3 million came from.
- g. As a practical matter, this provision of the Agreement is unlikely ever to come into play. Holtec initially assumed that partial site release would take place in 2025, and its PSDAR said \$225.5 million would remain in the DTF at the end of 2025. Its *3/31/2020 NRC filing says that partial site release will be in 2027, and that the DTF balance at the end of 2027 will be \$257 million. Both estimates are significantly more than the \$193.3 million trigger.*
- h. *Unless* Holtec spends far more than it expects to on site restoration before meeting the NRC requirements for partial site release, it seems likely that the amount in the DTF will not fall below \$193.3 million prior to partial site release.
- i. It also seems unlikely that any money will be recovered from DOE before partial site release. Any suit against DOE to recover costs probably will not even be filed until five years after the license transfer took effect.

- j. A parent guarantee is unlikely. The corporate structure was set up to shield the parent. Who would give a letter of credit or issue a bond to an essentially bankrupt LLC?

Comments on After Partial Site Release- \$38.4 Million (Par. 3-b)

- d. We have no idea where \$38.4 million came from. It approximates Holtec's estimated cost of storing spent nuclear fuel for five (5) years.
- e. The amount needed in the DTF likely will be far more than \$38.4 million.:
 - (iii) Holtec assumes that DOE will move all spent fuel offsite by the end of 2062. This is extremely unlikely. Far more likely is that Pilgrim's spent nuclear fuel will remain on site for many years after that. Onsite spent fuel storage until 2073, only ten years longer than Holtec projects, would add at least \$70 million in costs.
 - (iv) The potential costs of repacking the spent nuclear fuel, either for off-site shipment or because of canister failure, is hundreds of millions of dollars.
- f. Same reasons as described above with respect to dim prospects of recovering money into the decommissioning fund from the licensee's DOE suits, parent guarantees and securing bonds.

\$30 million Insurance (par. 4) - names the Commonwealth as an additional insured party, and provides coverage for "Contractor's Pollution Liability" (*non-radiological contamination exacerbated by certain decommissioning and Site restoration activities*) and "Pollution Legal Liability" (for *previously unknown non-radiological conditions* identified at the Pilgrim Site after August 26, 2019).

Comment

This insurance does not cover (i) any radiological contamination or (ii) any known non-radiological contamination that was not 'exacerbated by certain decommissioning and Site restoration activities.'

Subcontractors (contract not less 25 M) - Post Performance Bonds or equivalent performance assurance - not less 25% contract value (Par. 5)

Comments

- d. This bond requirement explicitly does not apply “to Holtec’s existing contract for Pilgrim reactor segmentation with GE-Hitachi Nuclear Energy and Holtec’s contract for Pilgrim radioactive waste management (including disposal and transportation).” Reactor segmentation and radioactive waste management these are the two biggest and most expensive components of decommissioning.
- e. CDI also is required only to require “its subcontractors ... to post performance bonds...” CDI itself is not required to do so
- f. We have found nothing in this agreement requiring a performance bond for reactor segmentation or radioactive waste management.

Financial Reports to State (pars. 6, 8)

Par. 6 requires Holtec Pilgrim/HDI to “provide copies to the Commonwealth, EEA, DEP, DPH, and MEMA of Holtec’s annual decommissioning and spent nuclear fuel management funding assurance reports filed with the NRC pursuant to 10 C.F.R. § 50.75(f)(1) and 10 C.F.R. § 50.82(a)(8)(v) (NRC Annual Trust Fund Status Reports).

Comments

- c. These reports to the NRC contain little information, essentially only current decommissioning cost estimates and the current balance in the decommissioning trust fund
- d. Nothing in the Settlement Agreement gives the Commonwealth the right or ability to audit what decommissioning work has been done, expenditures from the decommissioning trust fund for the various aspects of the work, or expected future expenses.

Par. 8 says “Subject to the confidentiality terms in Paragraph 32,¹³¹ no later than the last business day of each month, Holtec shall provide to the Commonwealth Holtec’s monthly project status reports, which shall include safety record, status of major project activities (e.g., reactor vessel segmentation, building demolition, and spent nuclear fuel loading), project schedule, project budget (including comparison of budgeted costs against actual costs), staffing, waste management, and regulatory assurance and compliance.

Comments

- c. Note that these are nothing more than “monthly project status reports.” Like the annual report to the NRC, they are very unlikely to provide any meaningful information.
- d. We expect Holtec to take advantage of Par. 32 and ensure that even the limited information these status reports might contain will be hidden from the public.

III. SITE RESTORATION AND ENVIRONMENTAL REQUIREMENTS AND REPORTING (Pars. 10-16)

The most important is Par. 10(d) that is directed at “addressing radiological contamination at the Site.”

Par. 10(d)(1) says that, at the time of partial site release,

“Holtec shall ... demonstrate compliance, or progress toward compliance, with 105 C.M.R. § 120.245, the Massachusetts radiological standard for unrestricted use of <10 millirem per year for all pathways, and reduction of residual radioactivity to levels that are otherwise as low as reasonably achievable (“ALARA”);”¹³²

and Par. 10(d)(5) says

“To demonstrate compliance with Paragraph 10(d), Holtec shall use ... the “resident farmer scenario” and “basement inventory model” to model the potential exposure to residual radioactivity in all pathways.”

Comments

- a. Par. 10(d)(2) allows Holtec to delay compliance with the Massachusetts standard for at least five years after Partial Site release “subject to DPH approval, which shall not be unreasonably withheld;” and Par.10(d)(3) allows the time for compliance to be further “extended by mutual agreement, which shall not be unreasonably withheld by DPH, for a reasonable period of time in the event of unforeseen conditions or circumstances beyond Holtec’s control.”
- b. No matter what the standard, it is meaningful only if the dose models are conservative. The Agreement says that Holtec does not need to use the conservative “resident farmer scenario” or “basement inventory model” if “the Parties ... mutually agree to an alternative standard for modeling if an approved future reuse

supports the use of such an alternative standard.” What more permissive models might be substituted or what such an “approved future reuse” might be are nowhere explained.

Par. 10(d)(4) says “Holtec shall not sell, transfer, and/or lease control, use, or ownership of or over the Site prior to compliance with the terms of Paragraph 10(b).”

Comment

We would expect Holtec to say that it has complied with Paragraph 10(d) long before the Commonwealth would agree that they have. Exactly what is required for “compliance with the terms of Paragraph 10(d)” is much less clear than we would have hoped.

Pars. 10(a)-(c) and (e)-(m) are concerned with what Holtec does to assess the condition of the Pilgrim site and to remediate it. Par. 11 requires Holtec to “submit to DEP and DPH for their review and approval the Initial Pilgrim Environmental Site Assessment work plan prepared by the LSP retained in accordance with Paragraph 10(b).” Paragraph 12 requires Holtec, DPH and DEP to meet and confer, and for Holtec eventually to “perform all actions in the Initial Pilgrim Environmental Site Assessment work plan.”

Comments

- a. These paragraphs of the Settlement Agreement are directed to “plans.” Exactly what the plans require is often unclear. The Settlement Agreement says little or nothing about how the Commonwealth is to ensure that Holtec has properly “perform[ed] all actions in the Initial Pilgrim Environmental Site Assessment work plan.”
- b. We are particularly concerned that Holtec’s site assessment will be inadequate, and that it will be carefully designed to ensure that as little remediation as possible will be done.
- c. It should not be forgotten that Holtec’s PSDAR limited site restoration to conventional dismantling, demolition, and removal from the site of radioactive structures and systems.
- d. Par. 10(a) of the Agreement carefully limits the information that Holtec must provide DEP and DPH to documents “related to radiological and non-radiological contamination at the Site that it or Holtec International possesses or may come to possess through a request to Entergy” within 60 days of the Agreement’s effective date. It avoids documents prior to deregulation when Pilgrim was operated by BECO and had significant radiological releases.
- e. There also is nothing to indicate that the site assessment will encompass the radiological and hazardous waste issues specifically identified in the

Commonwealth's or Pilgrim Watch's Petitions to intervene. At a June 22, 2020 meeting, Patrick O'Brien of CDI refused to say that Holtec would look at any of them.

IV. PAYMENTS, RADIATION MONITORING, ISFSI, AND WASTE TRANSPORTATION (pars. 17-24)

Par. 18 requires Holtec Pilgrim/HDI to "make payments to DPH [for emergency planning and environmental monitoring] and MEMA [for its operating expenses associated with decommissioning planning, decommissioning activities, and the decommissioning process in accordance with Table 1 (DPH) and Table 2 (MEMA)."

Nothing in the Settlement Agreement requires payment to any of the towns in the EPZ to cover their emergency planning costs – that they will continue to incur until all spent nuclear fuel has been removed from the Pilgrim site.¹³³

General Comment: Legislation

- c. H.3492, An Act relative to community radiological emergency response funds, is in the House Ways and Means as of July 2020. It would require" the licensee of each existing and proposed nuclear power plant in the Commonwealth, [to]fully fund offsite radiological emergency response expenses incurred by the Commonwealth or a municipality post closure." until all the reactor's spent fuel leaves the site.

We recommend it is reported out favorably with two amendments: (1) require funding until all the reactor's spent fuel is removed from the spent fuel pool and placed in dry casks, and (2) delete that no monies from any Decommissioning Trust Fund shall be used since the NRC has already allowed such use.

- d. H. 1970, An Act to Amend Section 5 K E of Chapter 111, is also in House Ways & Means. It would permit MDPH to assess the operators of existing and proposed nuclear power plants during operations and post closure not less than \$500,000 per facility.

We recommend that this bill also be reported out favorably.

Table 1 – Payments to DPH

The Table 1 payments to be made to DPH are \$522,471 a year, and they remain at that level until all spent fuel is in the ISFSI.

If all the spent fuel is in the ISFSI, the payments to DPH will drop from \$386,236 (2022) to \$200,000 (2026), and they will remain at that level until Partial Site Release. Even after Partial Site Release, annual \$100,000 payments to DPH 000 are required for 2007 and thereafter until the Massachusetts radiological standard is met.

Comments - These payments reflect several questionable assumptions:

- e. The need for DPH monitoring and testing will dramatically decrease once all spent fuel is in the ISFSI.
- f. The need for testing and monitoring will continue to decrease as the dry casks in the ISFSI age, and the risk of cask failure increases.
- g. Partial Site Release will further decrease the need for testing and monitoring.
- h. Even though dry casks of spent nuclear fuel will remain in the ISFSI for many, many years, there is no need for testing or monitoring after the rest of the site has met the Massachusetts standard.

Table 2 – Payments to MEMA

The Table 2 payments to be made to MEMA will similarly decrease over time.

- i. 2021 - \$1,170,864 or \$500,000 depending on whether federal emergency planning requirements are in effect.
- ii. 2022 - \$275,000 if all spent fuel has been moved to the ISFSI.
- iii. 2023-2027 - \$50,000 until Partial Site Release.
- iv. 2028 - \$32,500 – a half year of decommissioning costs and a half year of ISFSI costs.
- v. 2029 until License Termination - \$15,000.

Comments

- b. What payment will be made in 2021 not clear. The NRC exempted Pilgrim from offsite radiological emergency planning expenses after April 1, 2020. NRC CMR Baran dissented¹³⁴ from the exemption pointing out that all-hazards emergency plan does not provide for radiological emergencies.
- c. For each year, Table 2 specifies the types of expenses for which payment is to be made in considerable detail, and the payments for each year require “an invoice for the required payment.” Does payment depend on whether MEMA has spent the money in connection with accomplish what is set forth in the Table?

- d. As with DPH, the payments to MEMA reflect several questionable assumptions:
 - i. The costs of MEMA being prepared for a potential radiological emergency will dramatically decrease – from \$500,000 in 2021 to \$250,000 in 2022 (Holtec’s original goal to move spent fuel into dry casks), and then to \$50,000 for 2023-2027 (Holtec’s projected date for Partial Site Release, and to only \$15,000 after 2028.
 - ii. Once spent fuel has been moved into dry casks, there is little or no risk of a radiological release no matter how long the cask remains on site – even though there is no way to inspect the condition of its thin-wall canister and no currently available technology to replace a failed or failing canister.
 - iii. A dry cask failure will have little potential effect on the public health and the economy even though each dry cask contains half as much Cesium-137 as the total released at Chernobyl.
 - iv. Even though MEMA’s all-hazards emergency plan does not provide for radiological emergencies, once spent fuel has been moved into dry casks, all MEMA needs to do to protect the public is to review documents, conduct communication checks, and follow what is going on at Pilgrim and what DOE may be doing.
 - v. Although Pilgrim’s spent nuclear fuel will remain on site indefinitely, possibly for hundreds of years, all MEMA needs to do after 2029 is to participate in drills and exercises and security meetings.

Paragraphs 22-23 are concerned with ISFSI Security.

Paragraph 22(a) requires

- (a) An enhanced vegetation planting scheme consisting of trees and/or other species that retain year-round foliage for the area between the outer ISFSI fence and the top and downward slope of the hill on the Rocky Hill Road side of the ISFSI to better or completely obscure the ability to view the ISFSI and related buildings from Rocky Hill Road;
- b) (i) a vegetation planting scheme consisting of arborvitae or a like species that retains year-round foliage for the area in front of the Rocky Hill Road facing surface of the proposed vehicle barrier to obscure the ability to view the vehicle barrier wall from Rocky Hill Road and (ii) a scheme to install a rock or other appealing facade on the face of the of Rocky Hill Road facing surface of the proposed vehicle barrier wall and a planting scheme for Ivy or a like species along the same.

Comments:

- a. During Pilgrim's relicensing litigation in 2006, the MA AGO hired an expert to analyze the vulnerability of Pilgrim's dry casks to terrorist attack. The expert's report showed unequivocally that the thin-walled casks are vulnerable to weapons readily available to terrorists today. Subsequent analyses at other sites showed the same.
- b. Arborvitaes may help Plymouth pretend that there are no risks, but they do not prevent line-of-sight targeting.
- c. At the June 22 NDCAP meeting, the AGO said that some of its suggested solutions would not work. It appears to us that Holtec focused discussions on this subject on why what the AGO suggested would not work, rather than on trying to find a decent solution.
- d. We find it interesting that the vehicle barrier must be completely "obscured" while the ISFSI need not be.

Paragraph 23 is concerned with cybersecurity, and requires HD, "within thirty (30) days of the Effective Date, certify to the implementation of a cybersecurity plan at Pilgrim, which shall, at the very least, include [10] cybersecurity measures."

- a) Maintain an accurate inventory of digital assets related to safety, security and emergency preparedness functions ("Critical Digital Assets") and eliminate exposure of this equipment to external networks to the extent Pilgrim currently uses such Critical Digital Assets now or in the future;
- b) Implement network segmentation and apply firewalls.
- c) Use secure remote access methods.
- d) Establish role-based access controls and implement system logging.
- e) Use only strong passwords, change default passwords, and consider other access controls.
- f) Maintain security systems with no exposure to external networks (i.e., air gapped) or maintain awareness of vulnerabilities and implement necessary patches and updates for Critical Digital Assets, whichever is applicable.
- g) Develop and enforce policies on the use of mobile devices at the Site such as laptops, portable external hard drives, USBs, or flash drives.
- h) Implement an employee cybersecurity training program.
- i) Involve senior management (e.g., site vice president) in cybersecurity briefings and key decision-making; and

j) Implement measures for detecting compromises and develop a cybersecurity incident response plan.

Comments

- a. In substance, these measures appear simply to track what should be standard business practice.
- b. The NRC exempted Pilgrim from otherwise applicable cybersecurity requirements.
- c. We do not know what cybersecurity the ISFSI should have, and the NRC will not disclose its security requirements.

V. WITHDRAWAL OF PETITIONS AND OTHER LEGAL CHALLENGES (Paragraphs. 25-28)

Paragraph 25 requires the Commonwealth to withdraw its petitions and motions before the NRC in regard to applications or requests by Holtec for NRC actions regarding Pilgrim, and to file a dismissal agreement with the U.S. Court of Appeals for the District of Columbia Circuit. The Commonwealth has done so. a dismissal agreement regarding the D.C. Circuit Petitions (paragraph 25)

Comment

Pilgrim Watch's motions before the NRC remain pending. Pilgrim Watch is not a party to the Settlement Agreement and has not withdrawn its Motions.

Paragraph 28 limits the Commonwealth's ability to participate in other NRC proceedings or court actions.

"For a period of one (1) year following the Effective Date, the Commonwealth agrees not to take a position before the NRC or a court of law opposing or seeking to modify the terms of Holtec's acquisition of, and subsequent conduct of decommissioning activities at, Indian Point Energy Center in Buchanan, New York or Palisades Nuclear Generating Station in Covert Township, Michigan. During the second year of this Agreement, the Commonwealth agrees to the foregoing limitation, except that during the second year of the Agreement the Commonwealth may participate as an amicus curiae before a federal court regarding any issue related to Holtec's acquisition of any nuclear plant.

VI. MISCELLANEOUS ITEMS (Paragraphs 29-48)

These paragraphs are largely legal boilerplate. As noted above, paragraph 32 allows Holtec to prevent information in reports to the Commonwealth that Holtec says is confidential to be withheld from the public.

VII. NOTICES (Paragraph 49)

This paragraph lists the Attorney General's Office and six (6) Commonwealth Departments to which notices are to be sent. Notices to Holtec Pilgrim and Holtec Decommissioning International are to be sent to Holtec International's Vice President and Corporate Counsel, even though Holtec International is not a party to the Settlement Agreement.

VII. AUTHORITY OF SIGNATORIES (Paragraphs 50-52)

These paragraphs say that Holtec Pilgrim, HDI and the Massachusetts Attorney General have the authority to sign the Settlement Agreement.

Appendix I - Holtec June 17, 2020 Press Release

"While the agreement covers many topics, including financial assurance, site restoration standards, funding commitments to state agencies, and withdrawal of contentions, the major highlights include:

- Withdrawal of all petitions and appeals by the Commonwealth
- Commitment to meeting Commonwealth's radiological standard of 10 millirem for all pathways, which is 40% of the Federal standard of 25 millirem, in addition this agreement sets forth non-radiological clean-up standards for site restoration
- Funding provisions for Mass. Department for Public Health, Mass. Emergency Management Agency, and Mass. Department of Environmental Protection
- Regular updates provided to the Attorney General on Decommissioning progress
- Financial assurance to the Commonwealth including minimum balances of funds through partial site release and license termination, and a \$30 million pollution insurance policy
- Reasonable aesthetical requirements for the new ISFSI protected area, including some screening from Rocky Hill Road
- Good faith cooperation between the parties for permits and other state approvals that may be required "

Appendix II - Commonwealth Press Release

AG HEALEY, BAKER-POLITO ADMINISTRATION REACH AGREEMENT WITH HOLTEC OVER SALE OF PILGRIM NUCLEAR POWER PLANT

Agreement Addresses Environmental, Public Safety and Financial Concerns

BOSTON — Attorney General Maura Healey and the Baker-Polito Administration today announced a comprehensive agreement that ensures critical environmental, public safety, and financial protections for Massachusetts residents during the dismantlement and cleanup of the Pilgrim Nuclear Power Station in Plymouth.

The [settlement agreement](#) reached with Holtec Pilgrim, LLC, and Holtec Decommissioning International LLC (Holtec) resolves a [petition](#) the Commonwealth filed with the Nuclear Regulatory Commission (NRC) to challenge an application to transfer Pilgrim’s federal license from Entergy Nuclear Operations, Inc. and Entergy Nuclear Generation Company to Holtec. The agreement also resolves two lawsuits ([September 2019](#) and [January 2020](#)) the Commonwealth filed to challenge the NRC’s approval of the license transfer application, and several administrative challenges Holtec filed to challenge conditions in the January 2020 state water permit for the plant.

“Since the beginning of this proposed transfer, we have prioritized the health, safety and other important interests of our residents, and took steps to ensure that the local community and environment are protected,” said **AG Healey**. “This agreement provides critical protections, includes compliance measures stricter than federal requirements, and secures the funds necessary to safely and properly clean up this site. We are grateful for the partnership with the Governor’s Office and our state agencies to establish this clear framework and oversight that will be needed to complete this work safely.”

“This agreement represents a critical step towards the safe decommissioning and cleanup of the Pilgrim site while our Administration continues working on a clean energy future for the Commonwealth,” said **Governor Charlie Baker**. “We appreciate the collaboration of the Attorney General’s Office and several state agencies to reach this agreement.”

“The safe cleanup of the Pilgrim Nuclear Power Station site is of vital importance to protecting public health and the environment, and the Baker-Polito Administration has been dedicated to ensuring that Holtec carries out its commitment on this issue,” said **Energy and Environmental Affairs Secretary Kathleen Theoharides**. “Importantly, the agreement ensures that the cleanup of the site is overseen by state agencies and be held to the Commonwealth’s strict radiological and non-radiological hazardous waste cleanup standards, and that the necessary funds will continue to be available to ensure that natural resources are restored and public health protected.”

“This agreement will ensure that radiation cleanup standards are being adhered so that we do not have dangerous levels of radiation while the site is being decommissioned,” said **Department**

of Public Health (DPH) Commissioner Dr. Monica Bharel, MD, MPH. “Our goal has always been, and continues to be, the safety and health of area residents.”

“This agreement is an important milestone. There are things the Massachusetts Emergency Management Agency (MEMA), local communities, and Holtec can do collaboratively to ensure safety throughout the decommissioning process,” said **MEMA Director Samantha Phillips.** “These assurances and the financial support help us continue to focus principally on public safety and preparedness.”

“The agreement announced today paves the way to begin an expedited Pilgrim Decommissioning that will ensure that radiologic and non-radiologic contamination at the Pilgrim is cleaned up decades ahead of federal requirements, and in a manner that meets all Massachusetts' protective environmental standards,” said **Massachusetts Department of Environmental Protection (MassDEP) Commissioner Martin Suuberg.** “And as the decommissioning moves forward, MassDEP will oversee the cleanup activities to ensure these standards are met.”

The Commonwealth filed its petition and two lawsuits to address the state’s serious concerns regarding, among other things, the inadequacy of the financial assurances included in the application to ensure the complete and safe cleanup and restoration of the site, the long-term management of the plant’s spent nuclear fuel onsite, and the use of a trust funded in large part by Massachusetts electricity ratepayers to perform all of that work.

Financial Assurances

The agreement establishes a robust set of financial assurances and related reporting mechanisms to ensure that sufficient funds will be available to promptly and safely dismantle the nuclear power plant, clean up radiological and non-radiological contamination, restore the site, and manage spent nuclear fuel onsite until it is transported out of the state. Under the terms of the agreement, Holtec must maintain at least \$193 million in funds until it completes most of the cleanup and site restoration work and, after that point, \$38.4 million in funds until the spent nuclear fuel is removed from the plant. The \$193 million will ensure funds are available to cover future cost increases and unforeseen contingencies such as project delays and newly discovered contamination, and the \$38.4 million will ensure that funds are available to cover the costs to transport the spent nuclear fuel out of state and clean up the land where the spent nuclear fuel will be stored.

Holtec is also required to obtain \$30 million in pollution liability insurance and secure performance bonds for certain contracts. The agreement requires Holtec to provide monthly reports to the state in order for the Commonwealth to monitor the progress of the work at the plant and to foresee any financial issues.

Cleanup Requirements

The agreement requires Holtec to comply with the state's strict cleanup standards when it comes to radiological and non-radiological hazardous materials such as oil and polychlorinated biphenyl (PCBs). To advance the cleanup work, the agreement requires Holtec to submit to MassDEP and DPH an initial site assessment of the property to ascertain the types of contamination at the property and where such contamination may be located, and establishes clear guidelines for the removal and decontamination of structures, including radiologically contaminated structures, at the site.

MassDEP and DPH will oversee the cleanup work to ensure that public health and environment are protected. To aid in that effort, the agreement secures future funding for DPH so that it can continue monitoring air and food sources outside of the plant's boundaries for any offsite radiological contamination. The agreement will ensure that the property is cleaned up to a level that will allow for its future reuse to benefit of surrounding local communities, including the Town of Plymouth.

Public Safety

The agreement includes specific emergency preparedness requirements to protect the public in the event of a radiological emergency at the site. To further those requirements, MEMA will receive continued funding each year to perform its emergency preparedness functions until the risks decrease. Without the agreement, most of the existing emergency preparedness requirements and related funding for MEMA would have been eliminated because the NRC decided earlier this year to exempt the plant from federal emergency planning requirements by removing the requirement to maintain a ten-mile emergency planning zone (EPZ) around the site perimeter.

To further enhance public safety, the agreement also requires Holtec to implement cybersecurity measures to limit threats that could compromise plant systems designed to safely secure plant assets such as the spent nuclear fuel that will remain stored onsite. These requirements are not currently required by the NRC.

Since her office first filed its [petition](#) to challenge the transfer of Pilgrim from Entergy to Holtec in February 2019, AG Healey has been advocating both in discussions with the NRC and Holtec and through litigation to ensure the transfer included enough funds to safely decommission the plant and protect the state's taxpayers and the environment.

Since 2018, the Administration, through the Executive Office of Energy and Environmental Affairs, has led an interagency work group consisting of all relevant state agencies involved in the decommissioning effort to provide technical assistance to the AG's office and keep the public apprised of developments through the Nuclear Decommissioning Citizen Advisory Panel established by Section 14 of Chapter 188 of the Acts of 2016.

AG Healey has been a vocal advocate for increased safety at nuclear power plants. In December 2015, she filed a [brief](#) with other New England states in support of Vermont's call on the NRC to ensure decommissioning funds meant to clean up radioactive waste at closed power plants are not used for other purposes.

In June 2015, AG Healey sent a [letter](#) to congressional leaders advocating for three key pieces of legislation that are vital to increasing security at decommissioned reactors where spent fuel is stored, enhancing safety of long term storage of spent fuel at plant sites, including Pilgrim, and increasing opportunities for public participation in the decommissioning process for retiring plants.

AG Healey and Governor Baker led a bipartisan coalition of state and federal officials in [January 2017](#) that successfully called on the NRC to hold a public hearing to address ongoing safety issues at Pilgrim until the plant's scheduled closure.

This matter is being handled by Senior Appellate Counsel Seth Schofield and Assistant Attorneys General Joseph Dorfler and Liam Paskvan of AG Healey's Energy and Environment Bureau, with assistance from staff at the Executive Office of Energy and Environmental Affairs, the Executive Office of Health and Human Services, the Massachusetts Department of Environmental Protection, the Massachusetts Department of Public Health, the Massachusetts Emergency Management Agency, and the Commonwealth's consulting expert Four Points Group, Inc

LINKS

Southeastern Massachusetts Groups Focused On Pilgrim

- Pilgrim Watch <http://www.pilgrimwatch.org/>
- Pilgrim Legislative Action Cooperative <http://www.plac-ma.org/>
- Pilgrim Coalition <http://www.pilgrimcoalition.org/>
- Cape Downwinders <http://www.capedownwinders.info/>
- Cape Downwinders Cooperative
<http://capedownwinderscooperative.org/government/legislation/plac/>
- Down Cape Downwinders <https://www.facebook.com/Down-Cape-Downwinders-407255836063249/>
- Cape Cod Bay Watch <http://www.capecodbaywatch.org/>

Regional Groups

- C-10 Research and Education Foundation (Seabrook) <http://www.c-10.org/>
- Citizens Awareness Network (Vermont Yankee) <http://www.nukebusters.org/>
- New England Coalition (Vermont Yankee) <http://necnp.org/>
- Safe and Green Campaign (Vermont Yankee) <http://www.safeandgreencampaign.org/>

National Nuclear Safety Organizations

- Union Concerned Scientists http://www.ucsusa.org/nuclear_power/
- Beyond Nuclear <http://www.beyondnuclear.org/>
- Nuclear Information Service <http://www.nirs.org/>
- Institute of Energy and Environmental Research <https://ieer.org/>
- Bulletin of Atomic Scientists <http://thebulletin.org/>
- Fairewinds Energy Education <http://www.fairewinds.org/>
- Nuclear Decommissioning Citizen Advisory Panel -Vermont
<http://publicservice.vermont.gov/electric/ndcap>

Government

- Nuclear Regulatory Commission <http://www.nrc.gov/>
- NRC Library (web based, includes hearing docket) <http://www.nrc.gov/reading-rm/adams.html>
- NRC Meeting Schedule <http://www.nrc.gov/public-involve.html>
- Nuclear Decommissioning Citizens Advisory Panel <https://www.mass.gov/orgs/nuclear-decommissioning-citizens-advisory-panel>