Responses to Questions
The Honorable Andy Kim
Letter dated July 11, 2019

1. **In the event that the cost of the Oyster Creek decommissioning is less than the amount currently sitting in the decommissioning trust fund, would those leftover funds be returned to the taxpayer or would they be left with Holtec International?**

Once a licensee has completed radiological decommissioning and the NRC has terminated the operating license, the agency no longer has jurisdiction over the decommissioning trust fund. At that time, the disposition of any remaining trust funds would be the responsibility of the former licensee, subject to any other financial obligations it may have.

2. **Similarly, in the event that the cost of the Oyster Creek decommissioning runs over the amount in the decommissioning trust fund, would taxpayers be liable for any additional costs stemming from this process?**

At all times, the licensee has full responsibility to provide adequate funding for all NRC-required decommissioning activities. During decommissioning, the NRC actively oversees the licensee's decommissioning, including decommissioning funding. NRC regulations require a licensee to submit a site-specific decommissioning cost estimate that encompasses all costs required to decommission the plant. To determine the reasonableness of this cost estimate, the NRC staff typically relies on cost comparisons to projects of similar scope, both completed and proposed, and to the NRC's minimum requirements for radiological decommissioning. After a plant permanently closes and until radiological decommissioning is complete, a licensee is required to submit a decommissioning funding status report each year and certify that sufficient financial assurance for decommissioning has been provided. Through its independent review of this information, the NRC staff ensures that licensees have provided reasonable assurance that funding greater than or equal to the certified amount estimated to complete radiological decommissioning is, or will be, available.

A power reactor licensee's cost estimate also must include plans for adjusting the levels of funds assured so that funds will be available when needed to cover the cost of decommissioning. These plans provide the NRC staff with more detailed information about how a licensee will address funding assurance throughout the radiological decommissioning process. The NRC staff continues to monitor funding assurance annually until radiological decommissioning is complete and the operating license is terminated.

During its annual decommissioning funding review, the NRC staff may find that a licensee's trust fund balance, including projected growth and collections, is less than the estimated minimum amount needed for radiological decommissioning. In these cases, licensees may use the methods specified in NRC decommissioning funding regulations to remedy any deficit of funds. Methods include, but are not limited to, a parent company guaranteeing the amount needed to cover the deficit, moving cash into the decommissioning trust fund, or relying on market gains over time. Ultimately it is the licensee's responsibility to make up any deficit and complete radiological decommissioning.

3. **Was there any kind of environmental impact study done at Oyster Creek prior to the license transfer or closure of the plant? If not, does the NRC or Holtec plan to conduct an environmental impact study?**

The last environmental impact statement (EIS) prepared for Oyster Creek was the Supplemental EIS issued as part of the NRC's license renewal review in 2009. In November 2011, the National Marine Fisheries Service issued a biological opinion under the Endangered Species Act for the continued operation of Oyster Creek. The staff has re-initiated consultation with the National Marine Fisheries Service about the potential impacts of shutdown and decommissioning on the federally listed sea turtles.

Further, the NRC's regulations require a licensee to submit a Post Shutdown Decommissioning Activities Report (PSDAR), which must include "a discussion that provides the reasons for concluding that the environmental impacts associated with site-specific decommissioning activities will be bounded by appropriate previously issued environmental impact statements." Oyster Creek's PSDAR states that the environmental impacts of decommissioning are bounded by the NRC's "Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities: Supplement 1, Regarding the Decommissioning of Nuclear Power Reactors." PSDARs do not require NRC approval, and there is no agency action that would trigger another environmental review under the National Environmental Policy Act (NEPA).

No environmental review was performed as part of the license transfer. This type of licensing action is subject to a categorical exclusion from conducting an environmental review, under the NRC's NEPA implementing regulations, since there are no significant environmental impacts associated with a financial and administrative transaction between two entities.

4. Over the course of the life of the Spent Nuclear Fuel (SNF) at Oyster Creek, will Holtec be responsible for the long-term safety and repair of casks? What are the best practices that will define Holtec's responsibilities in that regard?

Yes. Holtec is responsible for the safety of the casks and any necessary repairs for as long as it is the license holder. For example, under NRC regulations, Holtec is required to have an aging management program for any dry storage casks for which renewal of the design or certificate is beyond the initial design certification or licensing term of the Independent Spent Fuel Storage Installation (ISFSI) where the casks are stored. This program provides for the continued monitoring and maintenance of the dry cask storage systems by the licensee. The purpose of the aging management program is to identify any potential aging-related defects in a spent fuel storage system at the earliest possible stage, so that the appropriate action can be taken to assure continued compliance with regulatory requirements and to protect public and worker safety.

5. What is the NRC's process for inspections of the quality and safety of the casks at Oyster Creek?

The NRC staff performs inspections at the cask fabricators' facilities to ensure that regulatory requirements are met during the design and production phases. The NRC also performs inspections at ISFSIs prior to initial cask loading and then at prescribed intervals to ensure that the SNF is being stored safely as required by NRC regulations and the facility's license. Following inspections for the initial cask loading, routine safety inspections of ISFSIs are performed approximately every two years, but do not exceed three years between inspections for the duration of the spent fuel storage.

6. What is the process for ensuring that the final audit of Holtec's use of taxpayer money in the decommissioning process is accurate?

NRC regulations require a licensee to submit a site-specific decommissioning cost estimate that encompasses all costs for completing radiological decommissioning. To determine the reasonableness of this cost estimate, the NRC staff typically relies on cost comparisons to projects of similar scope, both completed and proposed, and to NRC's minimum requirements for radiological decommissioning. After a plant permanently closes and until radiological decommissioning is completed, a licensee is required to submit a decommissioning funding status reports each year and certify that sufficient financial assurance for decommissioning has been provided.

7. What is the timeline for the establishment of a citizens' advisory panel for Oyster Creek's decommissioning?

The NRC is aware that the licensee, Exelon, sponsored the establishment of the Oyster Creek Stakeholder Information Forum prior to the license transfer to inform the public on its decommissioning plans. To date, the new licensee, Holtec/CDI, has not informed the NRC whether it will continue this forum or sponsor another similar entity. The NRC encourages licensees to sponsor community advisory boards for decommissioning.

Section 108 of the Nuclear Energy Innovation and Modernization Act (NEIMA) directs the NRC to develop a report to Congress identifying best practices with respect to the establishment and operation of local community advisory boards for nuclear power plant decommissioning sites. That section further requires that the NRC consult with local communities as part of the report's development by holding not less than 10 geographically diverse public meetings. On March 18, 2019, a *Federal Register* notice was issued (84 FR 9841) seeking stakeholder input to inform the selection of public meeting locations. The comment period for requests for public meeting closed on April 17, 2019. Based on the stakeholder input received, the NRC evaluated all requested meeting sites using the criteria outlined in NEIMA. The sites for those public meetings have recently been announced, including one to be held near Oyster Creek in early October. Additional details for each meeting, including specific locations, will be published on the NRC public website at https://www.nrc.gov/waste/decommissioning/neima-section-108.html.

8. What kind of written assurances can the people of Lacey get from the NRC and Holtec in regard to financial and inspection commitments?

The NRC's oversight process continues until the operating license for Oyster Creek is terminated at the completion of the decommissioning process. The NRC staff, through direct observation and verification of licensee activities, will determine whether the site is being decommissioned safely. Inspections during decommissioning are designed to ensure that spent fuel is safely and securely stored onsite or transferred to another licensed location, and that site operations and license termination activities comply with regulatory requirements and the facility's license. The NRC publicly issues inspection reports. Licensees are required to submit annual reports, which are also publicly available, on the status of the decommissioning trust fund and to provide reasonable assurance that there are sufficient funds available to complete the decommissioning process.