

**CITIZEN PARTICIPATION PLAN
FOR
INDIAN POINT ENERGY CENTER**

September 19, 2022

Holtec Decommissioning International, LLC
1 Holtec Blvd.
Camden, New Jersey 08104

Table of Contents

1. Introduction	3
2. Citizen Participation Activities	3
<i>Objectives</i>	3
<i>General Outreach Activities</i>	3
<i>Project Contacts</i>	4
<i>Locations of Reports and Information</i>	4
<i>Contacting Local Stakeholders</i>	4
<i>Plan Activities</i>	5
<i>Handling Public Comments</i>	5
<i>Table 1 - Citizen Participation Activities</i>	6
3. Major Issues of Public Concern	7
4. Site Information	7
<i>Site Description</i>	7
5. Investigation and Cleanup Process	9
<i>Remedy Selection</i>	11
<i>Proposed Cleanup and Remedial Action</i>	11
<i>Satisfactory Completion Letter</i>	12
<i>Site Management</i>	12
Appendix A - Project Contacts and Locations of Reports and Information	13
Project Contacts	13
Locations of Reports and Information	15
Appendix B - Key Local Stakeholder Contact List	15
Appendix C – IPEC Boundary and Adjacent Properties	17
Appendix D – Remedial Process for Indian Point Energy Center	18
Appendix E - Order on Consent and Administrative Settlement, dated April 14, 2021	19

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Note: The information presented in this Citizen Participation Plan was current as of the date of its approval by the New York State Department of Environmental Conservation. Portions of this Citizen Participation Plan may be revised during the Site’s investigation and cleanup process.

Respondent: **Holtec Decommissioning International, LLC** (“HDI” or “Respondent”)
Site Name: **Indian Point Energy Center** (“IPEC” or “Site”)
Site Address: **450 Broadway, Buchanan, NY 10511**
Site County: **Westchester County**
Site Numbers: 360038 (Units 1 & 2) and 360040 (Unit 3)

1. Introduction

HDI entered into an Order on Consent and Administrative Settlement (“Order”) with The New York State Department of Environmental Conservation (“Department” or “NYSDEC”) regarding the overall program for characterization, followed by subsequent investigation and remediation of IPEC. The Order is intended to memorialize a framework for developing and implementing work plans for corrective actions/remedial activities as part of the overall decommissioning of IPEC by HDI and its affiliates and other contractors. The Order is attached to this document in **Appendix E**.

The Order ensures that non-radiological and radiological contamination at IPEC is remediated to levels protective of public health and the environment, such that IPEC will be rendered ready for future safe reuse/redevelopment. As part of the Order, the development of a Citizen Participation Plan (“CP Plan”) is required to provide information on how HDI and the NYSDEC will inform and involve the public during the investigation and cleanup of the Site.

2. Citizen Participation Activities

Objectives

During significant activities pursuant to the Order, HDI and the NYSDEC will inform key stakeholders including local officials and residents in the environmental studies and cleanup activities. Informing local citizens interested in Site investigations and cleanup is important for many reasons. These include:

- Promoting the development of timely, effective investigation and remediation of the IPEC Site.
- Improving public access to, and understanding of, issues and information related to the investigation and cleanup process for IPEC.
- Obtain public input that reflects the interests and perspectives found within the affected community.
- Encouraging dialogue to promote the exchange of information among the interested local community and State agencies.

General Outreach Activities

A variety of CP activities will be used to communicate with affected property owners and stakeholders. These communications activities may include meetings, comment periods, fact sheets, mailings, placement of materials in the document repositories, and correspondence via a compiled mailing list. HDI will cooperate with the Department and provide reasonable assistance in soliciting public comment

on the documents identified for public comment in this Plan, proposed remedial action plans, and additional work plans and/or reports as the Department may require.

Project Contacts

Appendix A identifies HDI and NYSDEC project contacts to whom the public should address questions or request information about the Site's investigation and cleanup program. The public's suggestions regarding this Plan for the Site are welcome.

Locations of Reports and Information

The location(s) of the reports and information related to the Site's investigation and cleanup program also are identified in **Appendix A**. These document repository locations provide convenient access to important project documents for public review and comment. Some documents may be also placed on the HDI and NYSDEC Websites. If this occurs, the public will be informed using fact sheets or similar means, as appropriate.

A copy of this approved CP Plan is posted in the document repositories.

Contacting Local Stakeholders

NYSDEC and HDI are committed to provide the interested public and key local project stakeholders information regarding project status updates, notifications of upcoming significant activities (as defined in **Table 1**), access to project documents, and announcements about public comment periods.

Appendix B contains the key local stakeholder list. This list has been developed to keep the community informed about, and involved in, the Site's investigation and cleanup process. The contact list will be used to distribute fact sheets that provide updates about the status of the project. For the initial public outreach and information sharing *i.e.*, sharing the first "fact sheet"; the individuals listed in Appendix B will receive a hardcopy by mail which will include instructions for interested parties to register to receive future communications electronically. Subsequent fact sheets will be distributed exclusively through the document repositories as stated in Appendix A. Hardcopies of the uploaded documents will also be available for public review at the locations specified in Appendix A. Note that a list of the names, addresses, and email addresses of private property owners and residents are being maintained confidentially in HDI and NYSDEC project files and are not included in the CP Plan or repositories.

The contact list in Appendix B will be reviewed periodically by HDI and NYSDEC and updated as appropriate. Individuals and organizations may be added upon request and such requests should be submitted to the HDI project contact(s). Other additions to the contact list may be made at the discretion of the NYSDEC project manager, in consultation with other NYSDEC staff, as appropriate.

Plan Activities

At the end of this Section, **Table 1** identifies the CP Plan activities, at a minimum, that will be conducted during the Site's investigation and cleanup. The public is informed about these activities through fact sheets and notices distributed at significant points during the program. Elements of the investigation and cleanup process that match up with the CP Plan activities are explained briefly in Section 5 and are illustrated in **Appendix D**.

Notices and fact sheets help the interested and affected public to understand potential contamination issues related to the Site, and the nature and progress of subsequent efforts to investigate and clean-up the Site. Public forums, comment periods, and contact with project managers provide opportunities for the public to contribute information, opinions and perspectives. It is important to note that information presented with respect to these activities may include multiple areas and Work Plans. This will be done at the discretion of HDI with NYSDEC concurrence.

The public may contact the designated project contacts with questions, comments, or requests for information.

This Plan may be revised due to the nature and scope of investigation and cleanup activities subject to NYSDEC approval. Modifications may include additions to the Site contact list and changes in the CP Plan activities.

Handling Public Comments

The process for sharing fact sheets and handling public comments is generally described as follows:

- In the case of fact sheets, HDI will prepare the fact sheet and provide to NYSDEC for review. NYSDEC will provide comments and the parties will work in good faith to diligently finalize the fact sheet.
- NYSDEC will issue the finalized fact sheet to the key stakeholders identified and the other public recipients who register for electronic communications.
- NYSDEC will issue any Proposed Remedial Action Plan (PRAP) or Draft Statement of Basis (Draft SOB) requiring a 30-day public comment and public meeting.
- NYSDEC will be the recipient of comments received during the comment period and will exercise its discretion to organize and initially assess the comment, and then forward to HDI.
- HDI will prepare draft responses to the comments and refer to the NYSDEC for their review and input. The parties will work in good faith to diligently finalize the responses.
- NYSDEC will be responsible for sharing the final responses to the appropriate recipients.
- NYSDEC's final Record of Decision/Statement of Basis (ROD/SOB) will include a responsiveness summary of significant comments about the PRAP.

All documents will be placed in the document repositories.

Table 1 - Citizen Participation Activities

Citizen Participation Activities	Timing of Plan Activities
Before Start of Remedial Investigation (RI):	
<ul style="list-style-type: none"> • Prepare Site contact list for initial mailing / public notice • Establish document repository • Prepare Citizen Participation Plan • Place approved RI Work Plan in document repository • Distribute fact sheet to Site contact list that announces availability of RI Work Plan and describes upcoming RI field work 	<p>Before start of RI.</p> <p>Note: Draft Citizen Participation Plan must be submitted to NYSDEC within 20 days of effective date of Consent Order. The Plan must be approved by NYSDEC before distribution.</p>
Remedial Investigation Report:	
<ul style="list-style-type: none"> • Distribute fact sheet to Site contact list that describes RI results • Place approved RI Report in document repository 	<p>When NYSDEC approves RI Report</p>
Proposed Remedial Action Plan or Draft Statement of Basis (PRAP/Draft SOB):	
<ul style="list-style-type: none"> • Place PRAP/Draft SOB in document repository • Distribute fact sheet to Site contact list that describes PRAP and announces 30-day comment period and public meeting • Conduct 30-day public comment period • Hold public meeting about PRAP/ Draft SOB 	<p>When NYSDEC releases PRAP/Draft SOB. Comment period begins/ends as per dates identified in fact sheet. Public meeting is held during the comment period.</p>
Record of Decision or Statement of Basis (ROD/SOB):	
<ul style="list-style-type: none"> • Place ROD/SOB in document repository • Distribute notice to Site contact list that announces availability of ROD/SOB. ROD/SOB includes responsiveness summary of significant comments about PRAP 	<p>When NYSDEC issues ROD/SOB</p>
Before Start of Remedial Action:	
<ul style="list-style-type: none"> • Distribute fact sheet to Site contact list that describes upcoming remedial action 	<p>Before start of remedial action at the Site</p>
Cleanup Requirements Achieved:	
<ul style="list-style-type: none"> • Distribute fact sheet to Site contact list that announces cleanup requirements achieved • DEC issues Satisfactory Completion Letter 	<p>When NYSDEC certifies cleanup requirements achieved, or within 10 days after NYSDEC issues Satisfactory Completion Letter or other similar Site closure document</p>

3. Major Issues of Public Concern

There has been a significant degree of public interest in the forthcoming Site assessment and remedial work that will be undertaken in connection with the decommissioning of IPEC, which the Nuclear Regulatory Commission (NRC) and NYSDEC will oversee, and the Site's redevelopment. Issues of concern include but are not limited to: 1) the potential migration of airborne radiological and non-radiological contaminants during demolition activities; 2) potential contamination of groundwater and soils beneath the Site; and 3) standard(s) to which the Site will be remediated for future redevelopment.

When subsurface remediation commences, significant issues of community concern may include noise, odor, dust and/or truck traffic associated with removal of contaminated soil. Utilizing Best Management Practices (BMPs), these impacts will be mitigated through implementation of a Health and Safety Plan (HASP), Soil Management Plan and a Stormwater Pollution Prevention Plan (SWPPP), as required, and approved by the NYSDEC. A Community Air Monitoring Plan may also be implemented to monitor dust and vapors to ensure the community is not impacted. These plans may be developed as part of the Remedial Investigation Work Plan but may also be incorporated into other Work Plans developed by HDI and approved by the NYSDEC.

4. Site Information

Appendix C shows an overhead view of the Site and adjacent properties.

Site Description

- **Location: 450 Broadway, Buchanan, NY 10511**

- **Tax Parcels:**
 - Section 43.10 Block 2 – Lot 1
 - Section 43.10 Block 2 – Lot 2
 - Section 43.14 Block 2 – Lot 1.1
 - Section 43.14

- **Setting: Industrial**

- **Site size: approximately 254 acres**

- **Adjacent properties: residential, commercial, industrial**

History of Site Use and Prior Investigations

IPEC is a shutdown nuclear power plant (3 units) located on approximately 254 acres¹ of land on the east bank of the Hudson River at Indian Point, Village of Buchanan, in northern Westchester County, New York. The Site is about 25 miles north of New York City. The nearest city is Peekskill, 2.5 miles northeast of Indian Point.

The principal structures at IPEC include:

- three reactor containment buildings
- three turbine generator buildings
- three fuel handling/storage buildings
- administrative buildings
- warehouses
- maintenance and outage support buildings
- emergency diesel generator buildings
- intake/screenwell structures
- discharge canal
- Independent Spent Fuel Storage Installation (ISFSI)
- other auxiliary buildings

Operation and shutdown dates are as follows:

- Unit 1, 1962-1974
- Unit 2, 1974-April 2020
- Unit 3, 1976-April 2021

Units 1 and 2 were purchased by Entergy in August 2001 from Consolidated Edison. Entergy purchased Unit 3 in November 2000 from the Power Authority of the State of New York.

Holtec International acquired all three units from Entergy, through a wholly owned subsidiary, on May 28, 2021. HDI was then designated to act as the operator of the Site with responsibility to supervise decommissioning.

Assessments identifying known contamination have been previously performed at the Site, including a Historical Site Assessment (HSA) performed by a third party in 2019.

¹ 239 acres are covered by licenses with the U.S. Nuclear Regulatory Commission

The HSA identified radiological and non-radiological Areas of Concern, identified data gaps and recommended additional investigation and characterization activities needed to support the development of other decommissioning documents.

The recommendations have been utilized to identify Areas of Concern in the Remedial Investigation Scoping Work Plan and any such contamination will be investigated and remediated as described in a NYSDEC-approved Plan. This process is further described in Section 5 below.

5. Investigation and Cleanup Process

Pursuant to the Order, HDI has agreed to perform additional Site “remedial investigation” with NYSDEC oversight. The Site investigation has several goals:

- define the nature and extent of contamination in soil, surface water, groundwater and any other parts of the environment that may be affected;
- identify the source(s) of the contamination;
- assess the impact of the contamination on public health and the environment; and
- provide information to support the development of a proposed remedy to address the contamination or the determination that cleanup is not necessary.

The first step of the Site remedial investigation process is the development of a “Scoping Work Plan” as described in the ORDER. HDI developed a Remedial Investigation Scoping Work Plan (RISWP), using the HSA and other historical environmental documentation as input, which describes the overall program of remedial investigation of areas at IPEC to be addressed in close coordination with NRC decommissioning efforts. The RISWP was originally submitted by HDI to the NYSDEC on October 25, 2021, as required.

The RISWP summarized known environmental and sampling data at IPEC. The RISWP also established an overall plan including conceptual schedule for remedial investigations of discrete areas at IPEC where releases to environmental media are known or suspected to have occurred and may remain at concentrations above regulatory criteria, and discrete areas where a realistic potential for a release to environmental media exists. Environmental media to be investigated pursuant to the ORDER requirements generally include soil and groundwater.

The specific objectives of the RISWP are described below.

- Identify potential areas of concern (PAOC) through a comprehensive review of available relevant information and Site conditions.
- Develop screening criteria to identify areas that will be retained for RI (areas of concern [AOCs]).
- Review PAOCs against screening criteria and identify AOCs.
- Coordinate remedial investigations for each AOC with the overall decommissioning schedule.
- Develop “packages” of AOCs to be addressed in Remedial Investigation Work Plans (RIWPs).

- Coordinate scheduled preliminary RIWP submittal dates for each RI package and develop a general schedule for the overall RI program.
- Describe the regulatory pathway for obtaining NYSDEC approval for meeting the state radiological contamination cleanup criterion of 10 millirem per year (mRem/yr), as needed, after meeting the NRC's 25 mRem/yr standard and obtaining partial Site release¹ for most of the Site (excluding the ISFSI) from the NRC.
- Describe the regulatory pathway for obtaining NYSDEC approval of ISFSI closure after the spent fuel is removed from the Site and license release for the ISFSI is obtained from the NRC.

Following Department approval of the RISWP, other work plans will be proposed by HDI for review and approval by the Department. As specified by the Order, any proposed Work Plan must include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan.

A "Work Plan" may take the following form:

1. Remedial Investigation or Remedial Facility Investigation Work Plan (RIWP or RFIWP) – a work plan that provides for the investigation of the nature and extent of contamination at IPEC.
2. Feasibility Study or Corrective Measures Study Work Plan (FSWP or CMSWP) – a work plan that evaluates remedial alternatives/corrective measure alternatives at IPEC or a portion of IPEC. This work plan will include a range of remedial/corrective measures, at least one of which must be remediation of the facility to "its original state" Other remedial alternatives will take into consideration the reasonably anticipated reuse of IPEC or a portion of IPEC.
3. Remedial Action Work Plan or Corrective Measure Implementation Work Plan (RAWP or CMIWP) – provides for the development and implementation of a remedial/corrective measure program for contamination at IPEC or a portion of IPEC, in compliance with a Department-issued Statement of Basis/Record of Decision (SOB/ROD).
4. Interim Remedial Measure or Interim Corrective Measure Work Plan (IRMWP or ICMWP) – provides for the implementation of an interim remedial/corrective measure at IPEC or a portion of IPEC. An Interim Remedial Measure is an action that can be undertaken when a source of contamination or exposure pathway can be effectively addressed before the Site investigation and analysis of alternatives are completed. If an interim measure is likely to represent all or a significant part of the final remedy, NYSDEC will require a 30-day public comment period.
5. Site Management Plan (SMP) – provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy(ies) at IPEC.
6. "Supplemental" if an additional work plan other than those set forth above is required to be prepared or implemented, whether proposed by Respondent or requested by the Department.

Remedial Investigation

Following NYSDEC approval of the Remedial Investigation Scoping Work Plan, HDI will submit other draft Work Plans, as described above, to the NYSDEC for review and approval based on decommissioning activities.

AOCs identified in the RISWP will be grouped into Remedial Investigation Packages based on location and coordination with the overall decommissioning schedule. The approved Work Plans will be made available to the public through the issuance of a NYSDEC-approved fact sheet.

Remedy Selection

When the investigation of the AOCs is completed in accordance with an approved RIWP, the project likely would proceed down two parallel paths:

1. HDI will develop a Remedial Investigation Report that documents any contamination identified. The Report may also include a Feasibility Study or Corrective Measures Study Work Plan, which will evaluate the different remedial alternatives for the Site and will describe HDI's preferred remedy for addressing the contamination. The report will then be submitted to the NYSDEC for review and approval.
2. HDI may also recommend in its Remedial Investigation Report that no action is necessary for portions of the Site. In this case, NYSDEC would make the Report available for public comment for 30 days. NYSDEC then would complete its review, make any necessary revisions, and, if appropriate, approve the Report. NYSDEC may then issue HDI a Satisfactory Completion Letter, further described below, for the applicable Site portions.

Proposed Cleanup and Remedial Action

NYSDEC will propose a cleanup plan in a Proposed Remedial Action Plan or Draft Statement of Basis (PRAP/Draft SOB), which will select one or more alternatives evaluated in the Feasibility Study or Corrective Measures Study Work Plan. There will be a 30-day public comment period and public meeting for the PRAP/Draft SOB. Public comments will be reviewed and disposition prior to approving the proposed remedy in a final SOB/Record of Decision (ROD). The New York State Department of Health ("NYSDOH") must also concur with the proposed remedy(ies). NYSDOH contacts are also listed in Appendix A.

HDI will then perform the selected remedial action(s) with oversight from the NYSDEC and NYSDOH. When remediation is completed, HDI will prepare a Final Engineering Report that certifies that cleanup requirements have been achieved or will be achieved within a specific time frame. NYSDEC will review the report to ensure that the cleanup and/or any future actions associated with the cleanup is protective of public health and the environment for the intended use of the Site.

Satisfactory Completion Letter

When NYSDEC is satisfied that the cleanup requirements have been achieved, or will be achieved for the Site, it will approve the Final Engineering Report. NYSDEC may then issue a Satisfactory Completion Letter to HDI. Essentially, the letter will confirm that HDI has achieved cleanup at applicable portions of the Site. The Site owners would be eligible to redevelop the applicable portions of the Site after HDI receives a letter, subject to any Site Management controls described below.

Site Management

The purpose of Site Management is to ensure the safe reuse of the property if contamination will remain in place. Site management incorporates any institutional and engineering controls required to ensure that the remedy implemented for the Site remains protective of public health and the environment. All significant activities will be detailed in a Site Management Plan as required.

An *institutional control* is a non-physical restriction on use of the Site, such as an environmental easement that would prevent or restrict certain uses of the property. An institutional control may be used when the cleanup action leaves some contamination that makes the Site suitable for some, but not all, uses.

An *engineering control* is a physical barrier or method to manage contamination. Examples include caps, covers, barriers, fences, and treatment of water supplies.

Site management also may include the operation and maintenance of a component of the remedy, such as a system that pumps and treats groundwater. Site management continues until NYSDEC determines that it is no longer needed.

Appendix A - Project Contacts and Locations of Reports and Information

Project Contacts

For information about the Site's investigation and cleanup program, the public may contact any of the following project staff:

Organization:	Contact(s):
New York State Department of Environmental Conservation (NYSDEC)	<p>Attn: Kelly Turturro Regional Director, NYS Department of Environmental Conservation, Region 3 Office 21 South Putt Corners Road New Paltz, New York 12561-1620 Phone: (845) 256-3033 Email: Kelly.turturro@dec.ny.gov</p> <p>Kieran McCarthy NYSDEC Project Attorney NYS Department of Environmental Conservation 625 Broadway Albany, NY 12233 Phone: (518) 402-9185 Email: Kieran.mccarthy@dec.ny.gov</p> <p>Daniel J. Evans Director, Bureau of Hazardous Waste and Radiation Management 625 Broadway Albany, NY 12233-7256 Phone: (518) 402-8652 Email: Daniel.evans@dec.ny.gov</p> <p>Lynn Winterberger Chief, RCRA Permitting Section 625 Broadway Albany, NY 12233-7256 Phone: (518) 402-9267 Email: Lynn.Winterburger@dec.ny.gov</p>
New York State Department of Health (NYSDOH)	<p>Anthony Perretta NYS DOH Bureau of Environmental Exposure Investigation Empire State Plaza Corning Tower, Rm 1717 Albany, New York 12237 Phone: 518-402-7860 Email: Anthony.perretta@health.ny.gov</p>

	<p>Nicole Vitello Center for Environmental Health NYS DOH Corning Tower Albany, NY 12237 Phone: 518-402-7802 Email: Nicole.Vitillo@health.ny.gov</p> <p>Cynthia Costello NYS DOH Bureau of Environmental Radiation Protection Corning Tower, Room 1218 Empire State Plaza Albany, NY 12237 Phone: (518) 402-7556 Email: Cynthia.costello@health.ny.gov</p>
<p>Holtec Decommissioning International</p>	<p>Richard Burroni Site VP, IPEC</p> <p>Frank Spagnuolo Decommissioning Director, IPEC</p> <p>Kristin Maddalo IPEC Site Characterization Project Manager</p> <p>450 Broadway Buchanan, NY 10511 Phone: 914-254-6703 Email: IPECSiteCharacterization@Holtec.com</p>

Locations of Reports and Information

The on-line document repository identified below are being used to provide the public with convenient access to important project documents:

Hendrick Hudson Free Library
185 Kings Ferry Road
Montrose, NY 10548
(914) 739-5654
info@henhudfreelibrary.org

NYSDEC Region 3
21 S. Putt Corners Road
New Paltz, NY 12561

Indian Point Digital Repository:
indianpointSitecharacterizati.sharevault.net

Indian Point Decommissioning Site:
<https://holtecinternational.com/company/divisions/hdi/our-fleet/indian-point/>

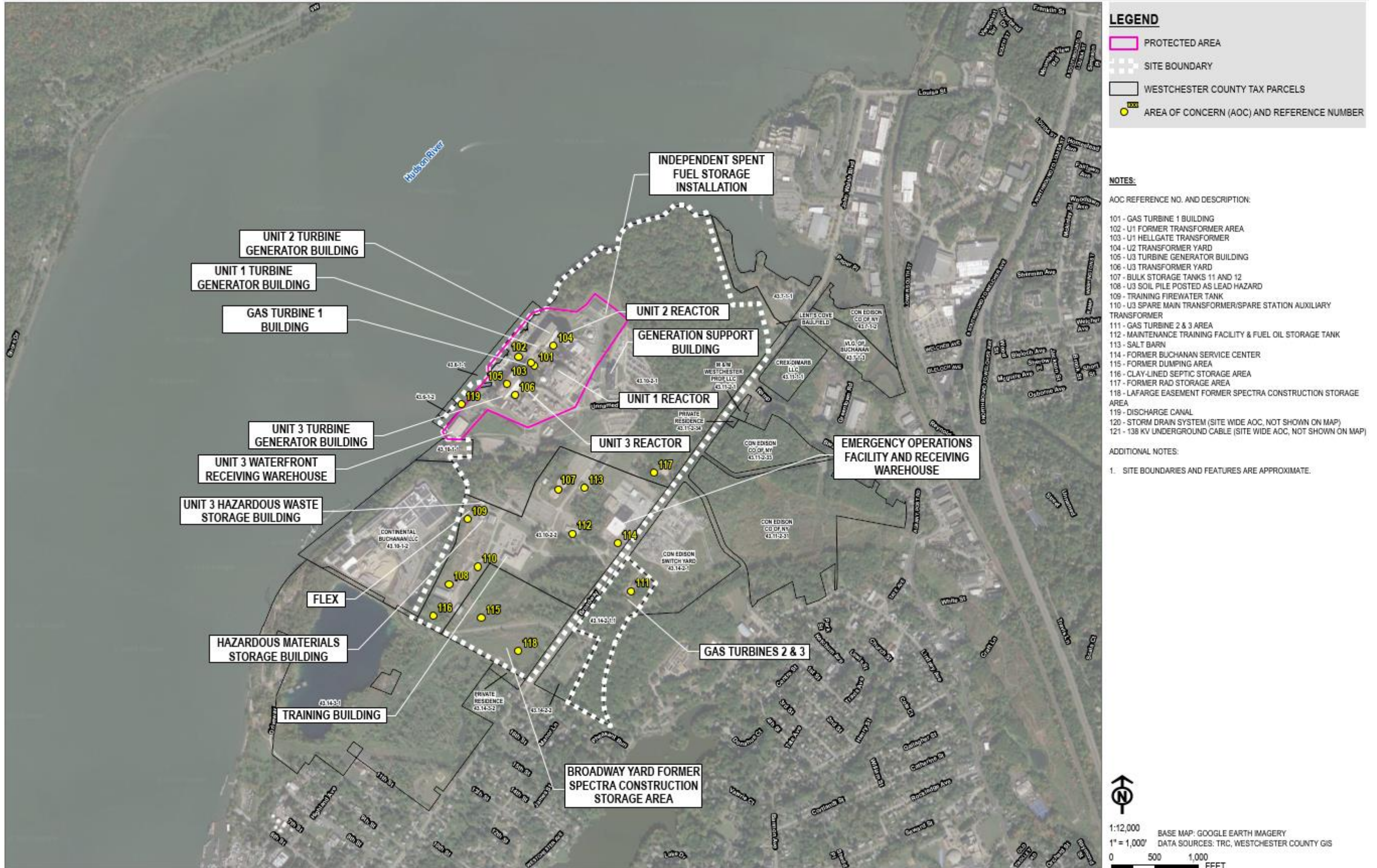
NYSDEC Document Repository Link:
[Hazardous Waste Management - NYS Dept. of Environmental Conservation](#)

NYS Department of Public Service – Indian Point Decommissioning Oversight Board
www.dps.ny.gov/indianpoint

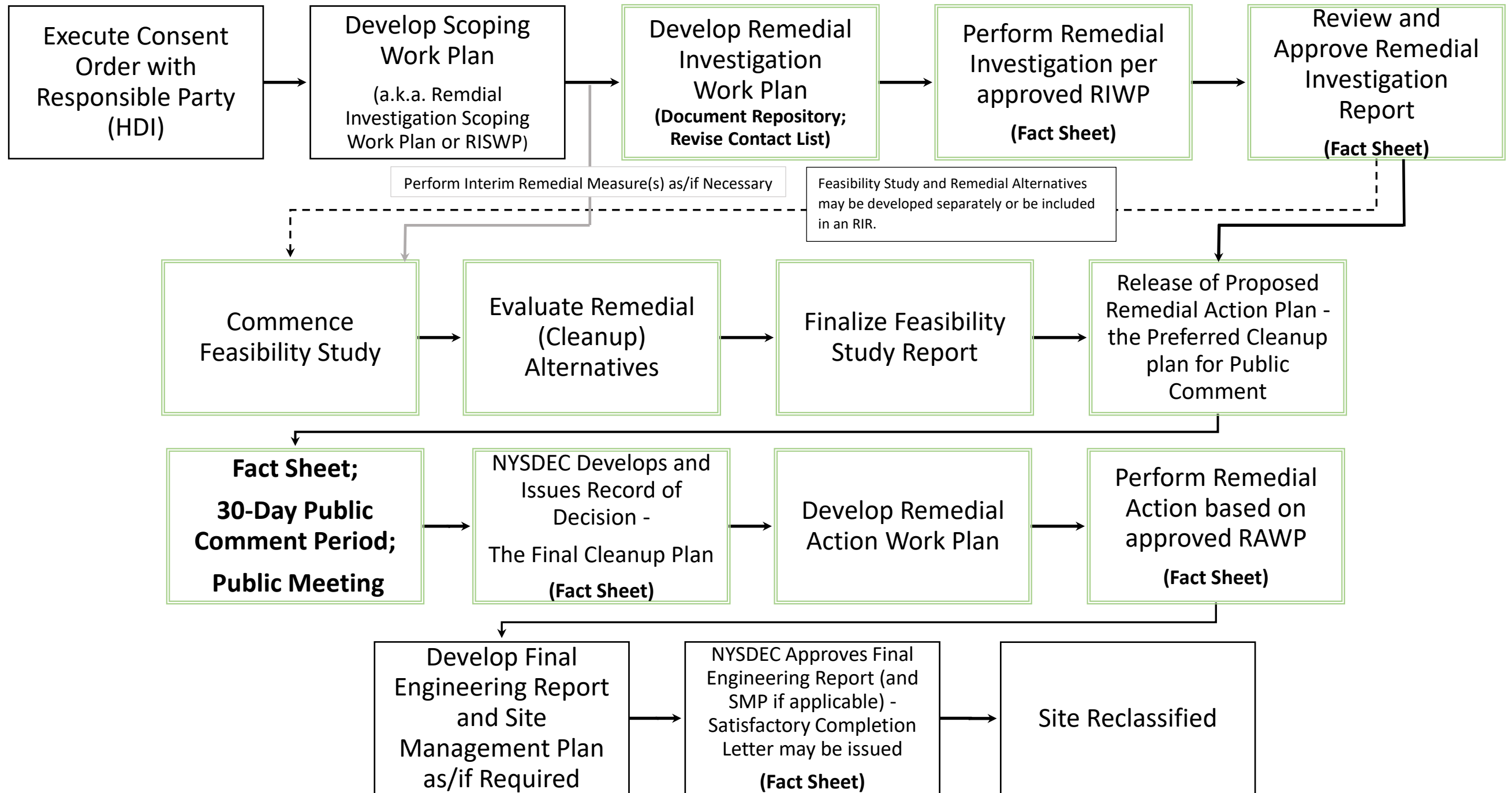
Appendix B - Key Local Stakeholder Contact List

Organization:	Contact(s):
Indian Point Decommissioning Oversight Board	
www.dps.ny.gov/indianpoint	Attn: Tom Congdon, Chair
Local Government Officials	
Village of Buchanan	Theresa Knickerbocker, Mayor
Town of Cortlandt	Rich Becker, Supervisor
West Chester County	Susan Spear, Deputy Commissioner of Emergency Services
Other NY Elected Officials	
NYS Governor	Kathleen Hochul
Lieutenant Governor	Antonio Delgado
State Senate	Peter Harckham
Assembly	TBD
Congress	Mondaire Jones
Senate	Kirsten Gillibrand
Senate	Chuck Schumer
Local School District	
Henry Hudson School District	Joseph Hochreiter, Superintendent
Switchyard Owner/Operator	
Con Edison	
Pipeline Owner/Operator	
Enbridge	

Appendix C – IPEC Boundary and Adjacent Properties



Appendix D – Remedial Process for Indian Point Energy Center



Notes:

- CP Activities are in **Bold**.
- Work Plans may have multiple AOCs as described in the RISWP. **Green boxes** being used to illustrate that many Work Plans may be in circulation with respect to NYSDEC review/approval and CP activities simultaneously
- Any proposed Work Plan submitted under the ORDER must be submitted for the Department's review and approval and must include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan.

Appendix E - Order on Consent and Administrative Settlement, dated April 14, 2021

Attachment A

Order on Consent and Administrative Settlement

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Implementation of Corrective Action for a Hazardous Waste Management Facility and Remedial Program for an Inactive Hazardous Waste Disposal Site, Pursuant to Article 27, Titles 9 and 13; and Article 71, Title 27 of the Environmental Conservation Law of the State of New York by:

Order on Consent and
Administrative Settlement
re Indian Point Energy Center

Holtec Decommissioning International, LLC

Respondent.

WHEREAS:

Jurisdiction

1. Consistent with the authority granted to the New York State Department of Environmental Conservation (“Department”) and the Department’s Commissioner by the Environmental Conservation Law of the State of New York (“ECL”) Article 1 Title 3, the Department is responsible for carrying out the “policy of the state of New York to conserve, improve and protect its natural resources and environment and to prevent, abate and control water, land and air pollution”.

Applicable Law

2. This Order on Consent and Administrative Settlement (“Order and Settlement”) is issued pursuant to the Department’s authority under the ECL, including, but not limited to:

a. ECL Article 27, Title 9 and Parts 370-374 and 376 of Title 6 of the Official

Compilation of Codes, Rules and Regulations (“6 NYCRR”) that govern the implementation of the Resource Conservation and Recovery Act Program (“RCRA”) via the Industrial Hazardous Waste Management Program;

b. ECL Article 27, Title 13 and 6 NYCRR Part 375 that govern the implementation of Inactive Hazardous Waste Disposal Site remedial programs through the State Superfund Program (“SSF”);

c. ECL Article 71, Title 27 that governs the enforcement of the provisions of Article 27, and authorizes the Department to enter into orders requiring corrective action;

d. The New York State Navigation Law, Article 12, which governs liability and cleanup of releases of petroleum in New York State, and provisions of 6 NYCRR, Part 613, that regulate the bulk storage of petroleum.

3. Consistent with the authority granted to the Commissioner, the Department may issue orders pursuant to *inter alia* ECL Article 27, Titles 9 and 13 and ECL 71-2727(3) and 71-1929 requiring corrective action/remedial programs, site management and such other measures as necessary to protect public health and the environment from releases of hazardous waste or constituents.

Parties & Facility Background

4. Holtec Decommissioning International, LLC (“HDI” or “Respondent”), is a Delaware limited liability company with its principal place of business at 1 Holtec Blvd., Camden, NJ 08104.

5. The Indian Point site and facilities, referred to in this Order and Settlement as the Indian Point Energy Center (“IPEC”), is a three-unit nuclear generating facility located in the Town of Cortlandt and the Village of Buchanan, New York. Units 1 and 2 have permanently ceased operation (although Unit 2 Spent Fuel Pool operation continues); Unit 3 will cease operation in April 2021. For purposes of this Order and Settlement, IPEC shall be defined herein to include the property and infrastructure shown and described on the map provided as Exhibit A.

6. On April 15, 2019, a Membership Interest Purchase and Sale Agreement (“MIPA”)

was signed by: Nuclear Asset Management Company, LLC and Holtec International (collectively the “Purchaser”), and Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC (collectively, the “Seller”). Under the terms of the MIPA, Purchaser will acquire all of the equity interest of two newly formed limited liability companies created by Seller, which at the time of closing of the transaction, will own IPEC and the associated real property, equipment, and other interests (collectively, the “Owners”), all as specifically described in the MIPA (the foregoing is collectively referred to as the “Transaction”).

7. After the Transaction closes, the Owners will sign a Consent Form, attached to this Order and Settlement as Exhibit B, which will make them additional respondents to this Order and Settlement.

8. In connection with the Transaction, on November 21, 2019 HDI, Purchaser and Seller filed a License Transfer Application (“LTA”) with the U.S. Nuclear Regulatory Commission (“NRC”), and thereafter supplemented the application with additional information including a decommissioning cost estimate. After finalizing the Transaction, HDI would be the NRC-licensed operator of IPEC with responsibility, among other things, to decommission IPEC Units 1, 2 and 3. HDI will engage and supervise a decommissioning general contractor for the majority of this effort. None of the reactors will be authorized to operate after permanent defueling and notification to the NRC occurs, which must be the case prior to the license transfer. At the time of the Transaction and license transfer, the Unit 3 reactor will be permanently defueled, and HDI will hold the NRC licenses for Unit 1, Unit 2, Unit 3, and the on-site Independent Spent Fuel Storage Installation(s) (ISFSI) until the NRC releases the Indian Point site from NRC regulation. The Unit 2 and Unit 3 spent fuel pools and the ISFSI will continue to operate after the completion of the Transaction.

9. As detailed below, this Order and Settlement requires investigation, evaluation, and corrective action of IPEC.

Objectives of this Order and Settlement

10. The Department and Respondent agree that the objectives of this Order and

Settlement are to:

- a. Resolve outstanding issues with the Department regarding the corrective action and remedial obligations at IPEC, by following the requirements of this Order and Settlement;
- b. Subject to Section I(a), coordinate, as necessary and appropriate, the corrective actions under this Order and Settlement with the radiological decommissioning process under the jurisdiction of the NRC. Completion of radiological decommissioning will culminate in NRC issuance of a “partial site release.” Partial site release is when the NRC gives written approval to release a portion of a nuclear facility or site for unrestricted use at any time before approving a license terminaton plan.¹
- c. Complete the evaluation and implementation of corrective actions/remedial activities, as well as site management requirements at IPEC;
- d. Establish the terms and conditions that govern the parties’ rights and responsibilities should there be a dispute, a violation of the ECL or its implementing regulations, or a violation of this Order and Settlement;
- e. Provide certain funding for Department and the New York State Department of Health’s costs;
- f. Provide financial assurance for corrective measures/remedial actions, and necessary site management requirements for IPEC. Such financial assurance shall also contain any required funds for additional radiological remediation beyond the NRC’s 25 millirem level to attain the Department’s guidance value (see DEC’s DER-38, Cleanup Guidelines for Soils Contaminated with Radioactive Materials) of maintaining a total effective dose equivalent (TEDE) to the maximally exposed individual of the public, to a level as low as reasonably

¹ See 10 CFR 50.83(a). Also, under NRC guidelines, a site will be considered for “unrestricted use” when the requirements of 10 CFR 20.1402 are met.

achievable (ALARA), and less than 10 millirem in any one year (mRem/yr.)

g. Implement any future Statement of Basis/Record of Decision (“SOB/ROD”) issued in connection with this Order and Settlement, to be prepared by the Department, as well as supplements or amendments thereto which will detail the corrective actions and site management requirements for IPEC;

h. Ensure that contamination associated with previous spills, explosions or other releases from IPEC at the areas referenced in Exhibit A, including but not limited to radiological contamination, petroleum, polychlorinated biphenyls (PCBs), and per- and polyfluoroalkyl substances (PFAS), is remediated to levels protective of public health and the environment;

i. Support citizen participation in the development of the corrective measures/remedial actions at IPEC, and

j. Allow for the future safe reuse of IPEC after successful decommissioning and necessary corrective actions are undertaken.

11. Respondent consents to the issuance of this Order and Settlement without (i) an admission or finding of liability, fault, wrongdoing, or violation of any law, regulation, permit, order, requirement, or standard of care of any kind whatsoever; (ii) an acknowledgment that there has been a release or threatened release of hazardous waste at or from IPEC; and/or (iii) an acknowledgment that a release or threatened release of hazardous waste at or from IPEC constitutes a significant threat to the public health or environment.

12. By entering into this Order and Settlement, Respondent hereby waives its rights to a hearing concerning this Order and Settlement as may be provided by law (while preserving its rights to dispute resolution as set forth below), consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order and Settlement, and agrees to be bound by its terms.

NOW, having considered this matter and being duly advised, **IT IS ORDERED THAT:**

I. Effect of Order and Settlement

A. Hereinafter, investigation, corrective action, remedial action, and site management activities undertaken by Respondent at IPEC will be subject to the terms and provisions of this Order and Settlement, recognizing that the NRC, as the federal radiological licensing authority for nuclear reactors, has the primary responsibility over the radiological decommissioning of IPEC pursuant to NRC requirements, and that the Department has authority over radiological remediation beyond the scope of NRC requirements, as well as other aspects of site restoration.

B. Necessary investigation and corrective action will be taken pursuant to one or more Department-approved work plans (“Work Plan” or Work Plans”) to be developed under and in accordance with the terms of this Order and Settlement.

C. This Order and Settlement shall control in the event of any conflicts between it and any prior order, agreement or authorization on the matters contained herein between the Department and the Seller, Purchaser, or Respondent concerning IPEC. As reflected by correspondence annexed as Exhibit C, the Department has confirmed that there are no existing administrative or judicial orders or obligations pertaining to unresolved regulatory duties or actions applicable to IPEC, excluding ongoing obligations related to the 2017 agreement between New York State and Entergy regarding monitoring and environmental benefit projects that New York and others are administering.

II. Financial Assurance

A. Within sixty (60) days of the Effective Date of this Order and Settlement, Respondent will post \$110,597,000 in financial assurance in the form of a surety bond or letter of credit, which will name “New York State Department of Environmental Conservation” as beneficiary. Respondent will provide the Department with an advance

copy of the surety bond or letter of credit, for the Department's prompt review and approval. Once approved and executed, Respondent will provide documentation to the Department of the amount posted within that timeframe. If Respondent fails to post and provide this documentation within that timeframe, this Order and Settlement will terminate and all terms and conditions within it will be null and void. The financial assurance required by this subparagraph covers the anticipated cost of remedial/corrective actions required by this Order and Settlement.

B. At the request of Respondent or on its own initiative, but no more frequently than on an annual basis, the Department will assess the status of work under this Order and Settlement, including the completion of work plans, as well as other information contained in reports submitted by Respondent (including their annual submission to the NRC). The Department will then determine if, and the degree to which, the amount of then existing financial assurance will be adjusted, based on information which shows changes to the estimates of costs of remaining corrective or remedial action.

- i. In the case where Respondent makes a request, the Department may contest the information or estimates provided by Respondent, but it will approve the adjustment if it agrees with Respondent's analysis. The parties agree to timely discuss divergent positions. The Department will notify Respondent of its adjustment and the basis for any denial no later 90 days after HDI's submittal request with supporting information.
- ii. In the case where the Department seeks an adjustment on its own initiative, it will notify Respondent in writing and justify the basis of the adjustment. Respondent may contest the adjustment per Section XVII (Dispute Resolution). If Respondent does not contest

the adjustment, it will update the financial assurance amount within 90 days of the Department's request. Despite the foregoing, if the estimated cost for corrective action or remedial action changes by less than [10%], Respondent shall have 24 months to perform corrective or remedial actions to bring costs in-line with the existing amounts of financial assurance, and Respondent will not be required to adjust the financial assurance during that time frame. If Respondent does not perform the required corrective or remedial actions during that 24-month period, it shall then update the financial assurance amount to meet the required adjustment.

C. Within sixty (60) days of the Effective Date of this Order and Settlement, Respondent will procure a Pollution Liability Insurance policy in the amount of \$30M, which will remain in place and be renewed as needed by Respondent until issuance of a Satisfactory Completion Letter as set forth in Section VIII. Respondent will provide the Department with an advance copy of the insurance policy, for the Department's prompt review and approval. Following the completion of site investigations and the commencement of the work plans as described in Section III, the Department will also consider in good faith Respondent's reasonable request (with supporting information) to reduce the amount of coverage prior to issuance of the Satisfactory Completion Letter. The Department will notify Respondent of its decision no later than ninety (90) days after HDI's request with supporting information and the basis for any denial. The policy shall name "New York Department of Environmental Conservation" as an additional insured on the policy.

D. Respondent's agreement to post financial assurance and maintain insurance in Sections II(A) and (C) above satisfies the financial requirements found in 6 NYCRR Section 373-2.8(h).

E. While this Order and Settlement remains in effect, the financial assurance will remain in effect subject to adjustment as set forth in subsection II.B. above and subject to adjustment for inflation as provided for in 6 NYCRR §373-2.8(c)(2) and 373-2.8(e)(2).

III. Initial Work Plan and future Work Plans at IPEC

A. Within one hundred and fifty (150) days of the effective date of this Order and Settlement, Respondent shall submit for the Department's review and approval a "Scoping Work Plan," which is a work plan that will describe the overall program of remedial investigation of areas at IPEC to be addressed in close coordination with NRC decommissioning efforts.

B. The Scoping Work Plan must summarize known environmental and sampling data at IPEC, include the schedule for investigation of discrete areas, and identify steps in order to fully understand the nature and extent of both radiological and non-radiological contamination (i.e., hazardous substances and petroleum) in soils, groundwater, and any other environmental media at IPEC. For additional clarity, with respect to radiological contamination, the Scoping Work Plan referenced in Section III, A. will include a schedule for completing radiological characterization and other related activities, however, any other Work Plan regarding radiological investigation or remediation (other than work plans developed under this Order and Settlement to achieve reductions from 25 to 10 mRem/yr) will be developed under NRC regulations using the MARSSIM process. As part of the final Scoping Work Plan, Respondent will certify that in compiling the plan and summarizing the data, it requested and exercised diligent, good faith efforts to review environmental records from the Sellers and their affiliates.

C. After approval and implementation of the Scoping Work Plan, other work plans will be proposed by Respondent for review and approval by the Department, under the procedures described in this Section, and those set forth in 6 NYCRR Part 375.

D. Any proposed Work Plan submitted under this Order and Settlement must be submitted for the Department's review and approval and must include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan. Respondent may also submit requests to the Department for approval through email for incidental tasks or administrative issues not otherwise covered herein. During approval review, Respondent is able to continue work with the understanding that the work is being performed at risk. Notwithstanding the foregoing, Department understands schedule variances are expected throughout decommissioning and the Department will not unreasonably withhold approval of any proposed schedule change so as to impact the ability to implement it as requested. Other than providing notice to the Department, Respondent is not required to seek Department approval for schedule variances estimated to be less than sixty (60) days, which are (i) related to radiological cleanup performed under NRC oversight, or (ii) related to other cleanup subject to this Order and Settlement; and such schedule delays shall not be subject to penalties under Section XII.

E. Types of Future Work Plans: A "Work Plan" may take the following form:

1. "Remedial Investigation or Remedial Facility Investigation Work Plan" or "RIWP/RFIWP" – a work plan that provides for the investigation of the nature and extent of contamination at IPEC;
2. "Feasibility Study or Corrective Measures Study Work Plan" or "FSWP/CMSWP" – a work plan that evaluates remedial alternatives/corrective measure alternatives at IPEC or a portion of IPEC. This work plan will include a range of remedial/corrective measures, at least one of which must be remediation of the facility to "its original state" as required by Article 27, Title 9, of the ECL. Other remedial alternatives will take into consideration the reasonably anticipated reuse of IPEC or a portion of IPEC.

3. “Remedial Action Work Plan or Corrective Measure Implementation Work Plan” or “RAWP/CMIWP” – provides for the development and implementation of a remedial/corrective measure program for contamination at IPEC or a portion of IPEC, in compliance with a Department-issued SOB/ROD.

4. “Interim Remedial Measure or Interim Corrective Measure Work Plan” or “IRMWP/ICMWP” – provides for the implementation of an interim remedial/corrective measure at IPEC or a portion of IPEC; and

5. “Site Management Plan” or “SMP” – provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy(ies) at IPEC.

6. “Supplemental” if an additional work plan other than those set forth above is required to be prepared or implemented, whether proposed by Respondent or requested by the Department.

F. Review of Work Plans:

The Department will make a good faith effort to review and respond in writing to each submittal Respondent make pursuant to this Order and Settlement within ninety (90) days. The Department’s response will include an approval, modification request, or disapproval of the submittal, in whole or in part.

1. Approval of Work Plan

Upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be deemed to be incorporated into and made a part of this Order and Settlement and shall be implemented in accordance with the schedule contained therein.

2. Modification to Work Plan

If the Department modifies or requests modifications to a submittal, it shall specify the reasons for such modification(s). Within thirty (30) days after the date

of the Department's written notice that Respondent's submittal must be modified, Respondent must notify the Department in writing of its election in accordance with 6 NYCRR 375-1.6(d)(3). If Respondent elects to modify or accept the Department's modifications to the submittal, Respondent shall transmit a revised submittal that incorporates all of the Department's modifications to the first submittal in accordance with the time period set forth in 6 NYCRR 375-1.6(d)(3). In the event that Respondent's revised submittal is disapproved, the Department will set forth its reasons for such disapproval in writing and Respondent will be in violation of this Order and Settlement unless it invokes dispute resolution pursuant to Section XVII and its position prevails. Failure to make an election or failure to comply with the election is a violation of this Order and Settlement.

3. Disapproval of Work Plan

If the Department disapproves a submittal, it shall specify the reasons for its disapproval. Within thirty (30) days after the date of the Department's written notice that Respondent's submittal has been disapproved, Respondent shall notify the Department in writing of its election in accordance with 6 NYCRR 375-1.6(d)(4). If Respondent elects to modify the submittal, Respondent shall make a revised submittal that addresses all of the Department's stated reasons for disapproving the first submittal in accordance with the time period set forth in 6 NYCRR 375-1.6(d)(4). In the event that Respondent's revised submittal is disapproved, the Department shall set forth its reasons for such disapproval in writing and Respondent shall be in violation of this Order and Settlement unless it invokes dispute resolution pursuant to Section XVII and its position prevails. Failure to make an election or failure to comply with the election is a violation of this Order and Settlement.

G. Upon completion of the RIWP/RFIWP and submission of the applicable final report issued pursuant to Section VI, the Department will determine if one or more areas

do not require further remedial or corrective action. The Department shall make such determination in writing within ninety (90) days of accepting the final report. The Department may request additional time for review, for good reason. Respondent understands that areas no longer subject to further remedial or corrective action may still be subject to other conditions that would need to be satisfied in order for such areas to be no longer subject to the terms of this Order and Settlement (i.e., specified site management or institutional controls).

H. The Department will notify Respondent in writing if the Department determines that any element of a Department-approved Work Plan needs to be modified in order to achieve the objectives of the Work Plan or to ensure that the corrective action/remedial program otherwise protects public health and the environment. Upon receipt of such notification, Respondent must, subject to dispute resolution pursuant to Section XVII, modify the Work Plan.

I. During field activities conducted under a Department-approved Work Plan, Respondent must have an on-site licensed and registered Professional Engineer, or an on-site representative that is directly supervised by a Professional Engineer, for activities involving hazardous waste or petroleum remediation.

J. Following partial site release, and assuming Respondent has not yet achieved the Department's requirements for radiological cleanup, whenever radiological field activities are occurring (meaning characterization, radiological material handling, remediation, and waste management), Respondent must have an on-site entity licensed by the DOH as a Decontamination and Decommissioning Health Physics Consultant (D&D consultant), or an entity recognized as meeting reciprocity requirements by the DOH.

K. A Professional Engineer, licensed, and registered in New York State, must sign, stamp and certify all Work Plans, Work Plan Reports, other reports (including any final engineering report), and design documents submitted in final form - all in accordance

with 6 NYCRR 373-1.4(a)(5)(iv). Respondent should only undertake work required under this Order and Settlement pursuant to one or more approved Work Plans. However, Respondent may proceed to implement work while awaiting Departmental approvals on Work Plans or other determinations, upon notice to the Department, at its own risk. Such unapproved work could result in the imposition of penalties, corrective actions, or other enforcement against Respondent if the work violates the Department's regulations or the ECL. Furthermore, Respondent risks that the Department will require additional or re-implementation of work to the Department's standards at IPEC or a portion of IPEC upon its ultimate approval. For additional clarity, the foregoing is not meant to restrict or prohibit work regulated under the NRC's authority.

L. The work required under this Order and Settlement is extensive and is expected to take many years to complete. The Department agrees to provide flexibility, extensions of schedules, and other accommodations to Respondent based on legitimate and justifiable delays in progress or unforeseen changes in circumstances. Respondent can request extensions for notice/submittal deadlines set forth in this Order and Settlement, which the Department will not unreasonably withhold, condition, or delay.

IV. Citizen Participation Plan

A. Within (30) days of the Effective Date of this Order and Settlement, Respondent must submit for review and approval a written Citizen Participation Plan ("CPP") prepared consistent with the requirements of 6 NYCRR 375-1.10. Upon approval, the CPP will be deemed to be incorporated into and made a part of this Order and Settlement.

B. Respondent must cooperate with the Department and provide reasonable assistance, consistent with the CPP, in soliciting public comment on the work plans and reports identified for public comment in the CPP, proposed remedial action plans, and

additional work plans and/or reports as the Department may require.

C. The CPP may need to be supplemented, modified, or updated as mutually agreed by Respondent and the Department with respect to the corrective measure/remedial action activities, site management activities, or decommissioning activities from time to time.

V. Department's Issuance of a SOB/ROD

A. Respondent must cooperate with the Department and provide reasonable assistance, consistent with their CPP discussed above, to solicit public comment on any proposed remedial action plans ("PRAPs") issued pursuant to a draft SOB/ROD at IPEC.

B. After the close of the public comment period on a PRAP, the Department will select the remedial action(s)/corrective measure(s) to be implemented by Respondent at IPEC or a portion of IPEC.

C. A final SOB/ROD will incorporate the appropriate soil cleanup objective (SCO) based on the factors in 6 NYCRR 375-1.8(f) and CP-51. The final SOB/ROD will also incorporate the 10 millirem per year guidance value in the Department's "Cleanup Guidelines for Soils Contaminated with Radioactive Materials" (DER-38).

D. Should contamination be discovered during corrective measure/remedial action work under this Order and Settlement, that was unknown and unexpected when the SOB/ROD was issued, Respondent must provide written notice to the Department, within timeframes required pursuant to applicable laws, but no later than within five (5) business days of the discovery. Discovery of unknown or unexpected contamination may include a tank, visibly stained soils, or superficially-scanned soils or groundwater, or unexpected or unique contamination in buildings or environmental media.

E. For the purposes of satisfying this notice requirement (in addition to any required spills reporting), Respondent may utilize the Department's Project Manager's electronic

mail address and phone number. Should the Department then determine that the previously unknown contamination requires remediation, the scope of the required corrective measure/remedial action work will be expanded to include such newly-discovered contamination.

VI. Submission of Final Reports and Periodic Reports:

A. In accordance with the schedule to be contained in an approved Work Plan, or any subsequent schedule agreed to and approved by the Department, Respondent shall submit a draft final report for each Work Plan as provided at 6 NYCRR 375-1.6(b). Such draft final report shall contain all relevant data gathered and drawings and submittals made pursuant to such Work Plan, in an electronic format acceptable to the Department. If any document cannot be converted into electronic format, Respondent shall submit such document in an alternative format acceptable to the Department.

B. The Department will review the draft final report, and will make a good faith effort to provide comments or approve the draft final report within one hundred twenty (120 days) of the submittal of the draft final report.

C. Within sixty (60) days after the Department's approval of a final report, Respondent must submit such additional Work Plans as is reasonably required by the Department in its approval letter of such final report. Subject to Section XII, failure to submit additional Work Plans within such period will be a violation of this Order and Settlement.

D. Any final report or final engineering report that includes construction activities shall include "as built" drawings showing any changes made to the corrective measure/remedial design or the IRM/ICM.

VII. IPEC Facility Institutional Controls and Use

A. If the Department-approved SOB/ROD for IPEC relies upon one or more institutional and/or engineering controls, Respondent must submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36, and 6 NYCRR 375-1.8(h)(2). Upon acceptance of the Environmental Easement by the Department, Respondent must comply with the requirements of 6 NYCRR 375-1.8(h)(3).

B. Failure to cause such environmental easement to be recorded in accordance with 6 NYCRR 375-1.8(h)(2), will be a violation of this Order and Settlement and may result in the Department filing an Environmental Notice on the Site. If the Department files an Environmental Notice, Respondent will not be entitled to the satisfactory completion letter detailed in Section VIII of this Order and Settlement.

C. Respondent must notify the Department at least sixty (60) days in advance of any change of use, which is proposed for IPEC in accordance with the provisions of 6 NYCRR 375-1.11(d). For purposes of this Order and Settlement, "change of use" shall be as defined in 6 NYCRR 375-2.2(a). If the Department determines that the proposed change of use is prohibited, the Department will make a good faith effort to notify Respondent of such determination, with a reasonable basis for the determination, within forty-five (45) days of receipt of such notice.

VIII. Termination of Order and Settlement and Satisfactory Completion Letter

A. This Order and Settlement will terminate upon the Department's written determination that Respondent has completed all phases of the corrective action/remedial program (other than site management) at IPEC, which Respondent anticipates will be at or near the time of "partial site release" from the NRC in its decommissioning process. Any site management for the ISFSI or as otherwise required

under this Order and Settlement will remain in place until such time as the Department determines it is no longer necessary.

B. Such written determination will be in the form of a Satisfactory Completion Letter from the Department. Such Satisfactory Completion Letter will document that Respondent has completed its obligations under this Order and Settlement, including all necessary corrective/remediation actions, and that no further action (other than site management) is required to render IPEC (or a portion thereof) acceptable for the land use provided for in an SOB/ROD or Environmental Easement. Notwithstanding the foregoing, nothing in this Section shall limit the Department's ability under Section III.G. hereof to determine that one or more areas of IPEC do not require further remedial or corrective action and release such areas of IPEC from coverage under this Order and Settlement.

C. Notwithstanding the foregoing, the provisions contained in Section XIV shall survive the termination of this Order and Settlement.

IX. Public Notice & Transfer Requirements

A. Within thirty (30) days after the effective date of this Order and Settlement, Respondent must provide notice consistent with the requirements set forth in 6 NYCRR 375-1.5(a). Within sixty (60) days of such submission, Respondent must provide the Department with a copy of such instrument certified by the recording officer to be a true and faithful copy.

B. Upon sale of IPEC to Purchaser, the Owners, or another entity that purchases IPEC or any portion of IPEC, shall sign a "Consent of Owner" attached as Exhibit B, which will require Owners to comply with all of the provisions of this Order and Settlement, in the same manner as Respondent is bound.

C. Respondent (and Owners thereafter) shall not transfer by sale or by lease the whole or any part of its interest in IPEC without giving the Department at least one hundred and eighty (180) days prior notice. No transfer in ownership, management, or operation of IPEC, or any portion thereof, shall relieve Respondent or Owners or their managers, officers, directors, agents, successors, assigns, heirs, and/or servants of any obligation under this Order and Settlement, unless:

1. The proposed transferee² agrees, in writing, to undertake the obligations required by this Order and Settlement and to be substituted for Respondent,
2. The proposed transferee obtains all necessary NRC approvals for license transfer, permit, or other required authorizations, if applicable,
3. The proposed transferee maintains all required financial assurance and liability insurance set forth in Section II at the time of transfer and any financial assurance and liability insurance required into the future, and
4. The proposed transferee maintains all required site management until the Department determines it is no longer necessary and completed.

D. The notice required in this Section must be in writing, and identify the transferee and of the nature and proposed, or actual, date of the conveyance, and must notify the transferee in writing, with a copy to the Department, of the applicability of this Order and Settlement.

E. The restrictions and requirements set forth in Section IX, A-D are not meant to apply to leases for (i) use of some or all of the administration building or training center,

² Any entity that leases, owns, or exerts operational control of IPEC or a portion of IPEC.

or (ii) other short-term leases of one year or less for a portion of the site, provided in all cases the lessee is not expected to cause adverse material environmental impacts to the site. Respondent will provide notice to the Department of such leases, as soon as reasonably possible.

X. Entry Upon IPEC facility and State Costs

A. Respondent hereby consents, upon reasonable notice and safety preparation to allow an authorized representative of the Department to visit IPEC for purposes of observing and inspecting major work activities, obtaining samples and reviewing/copying records (not related to personnel or business confidential information) related to contamination, testing, and any other activities reasonably necessary to ensure Respondent's compliance with this Order and Settlement. The Department's representative shall present appropriate identification and shall abide by access, health, and safety rules in effect for IPEC. Review and copying of documents may also be subject to confidentiality restrictions to protect proprietary information. Respondent will clearly identify what it believes constitutes proprietary or confidential business information. Access to confidential business information would be limited to appropriate Department staff and any consultants assisting the Department with oversight, monitoring, etc. will enter into appropriate confidentiality agreements with HDI. Further, the Department's safety representative shall undertake reasonable efforts to minimize disruptions to work activities unless for immediate safety-related concerns.

B. To facilitate the Department's role in monitoring decommissioning activities, obtaining samples, and monitoring Respondent's compliance with the ECL and this Order and Settlement, Respondent agrees to reimburse the Department's costs as detailed in Section XI.

C. Upon request and at least five (5) business days advance notice, Respondent shall (i) provide the Department with suitable workspace at the IPEC facility including access to a telephone, to the extent available and (ii) permit the Department full access

to non-privileged records relating to matters addressed by this Order and Settlement. Raw data related to testing, sampling, radiological surveying, and other environmental monitoring is not considered privileged and that portion of any privileged document containing raw data must be provided to the Department. In the event Respondent is unable to obtain any authorization from third-party property owners necessary to perform its obligations under this Order and Settlement (e.g., accessing NYSERDA-owned real property), the Department may, consistent with its legal authority, assist in obtaining such authorizations.

XI. Payment of State Costs

A. In consideration of the Department's and the New York State Department of Health's ongoing monitoring and other costs related to IPEC, Respondent agrees to provide the Department with annual funding as follows:

- An annual amount that will not exceed \$300,000.
- The annual funding estimate not to exceed \$300,000 will be updated annually for inflation at 1% for the Department's first ten (10) fiscal years following the effective date of this Order and Settlement.
- The Department and the Department of Health may employ contractors or consultants to perform the oversight required by this Order and Settlement, and the Department may provide those invoices to Respondent as laid out below, which would be reimbursed up to the annual cap number of \$300,000 plus inflation. Contractor costs shall be in line with industry norms.

B. After incurring costs, the Department will provide Respondent invoices representing the costs of monitoring IPEC and the costs of ensuring fulfillment and compliance with this Order. Respondent will make the required payment within forty-five

(days) after receipt of an invoice from the Department. Failure to timely pay any undisputed invoice will be subject to interest at a rate of 9% from the date the payment is due until the date the payment is made.

C. Invoices to Respondent will be sent electronically, if possible, to the following address:

accountspayable@holtec.com

with a copy to:

Holtec Decommissioning International, LLC
Attn: Vice President Regulatory and Environmental Affairs
1 Holtec Blvd.
Camden, NJ 08104

Each such payment must be made payable to the New York State Department of Environmental Conservation and shall be sent to:

New York State Department of Environmental Conservation
Division of Management & Budget, 10th Floor
625 Broadway
Albany, NY 12233-4900

D. Each party shall notify the other within thirty (30) days after any change in the addresses listed in this Section.

XII. Penalties

A. Subject to the provisions below regarding Force Majeure Events, Respondent's failure to comply with any material term of this Order and Settlement constitutes a violation of this Order and Settlement and the ECL. If the Department determines that Respondent has failed to materially comply with this Order and Settlement, the Department will notify Respondent in writing, specifying such noncompliance and giving Respondent a reasonable opportunity to cure before any penalties are imposed. Such

cure period shall not be less than thirty (30) days from the date Respondent receives the Department's notice. Payment of any penalty shall not in any way alter Respondent's obligation to comply with any term of this Order and Settlement or to complete performance under the terms of this Order and Settlement. The payment of penalties as set forth below will not limit the Department's right to seek such other relief as may be authorized by law. Nothing herein abridges Respondent's right to contest any allegation that it has failed to comply with this Order and Settlement.

B. Civil and administrative sanctions: As provided by ECL §71-2705, the civil penalty for failing to comply with the requirements of this Order and Settlement shall not exceed thirty-seven thousand five hundred dollars (\$37,500), with additional penalty of not more than thirty-seven thousand five hundred dollars (\$37,500) for each day during which such violation continues. In the case of a second and any further violation, the liability is for a civil penalty not to exceed seventy-five thousand dollars (\$75,000) for each such violation, with additional penalty not to exceed seventy-five thousand dollars (\$75,000) for each day during which that violation continues.

C. Any penalty assessed pursuant to the terms and conditions of this Order and Settlement must be paid by submitting a certified or cashier's check or money order, payable to the Department of Environmental Conservation, to: Andrew Guglielmi, Esq., Department of Environmental Conservation, Office of General Counsel, 625 Broadway, Albany, New York 12233-1500. Unpaid and undisputed penalties imposed by this Order and Settlement will be subject to interest at the rate of 9 percent per annum for each day the penalty, or any portion thereof, remains unpaid. Payments received will first be applied to accrued interest charges and then to the unpaid balance of the penalty.

D. Default of Payment: The penalties assessed pursuant to the Order and Settlement constitutes a debt owed to the State of New York. Failure to pay the assessed penalty or any part thereof may result in referral to the New York State

Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), or referral to the New York State Department of Taxation and Finance, which may offset any tax refund or other monies owed by the State of New York by the penalty amount.

XIII. Force Majeure

A. Respondent shall not suffer any penalty or be subject to any proceeding or action in the event it cannot comply with any requirement of this Order and Settlement as a result of any event arising from causes beyond the reasonable control of Respondent, of any entity controlled by Respondent, and of Respondent's contractors, that delays or prevents the performance of any obligation under this Order and Settlement despite Respondent's efforts to fulfill the obligation, such as where the failure is a result of acts of God, work stoppages due to labor disputes or strikes, fires, explosions, epidemics, pandemics, riots, war, rebellion, sabotage or any other condition which was not caused by the negligence or willful misconduct of Respondent and which could not have been avoided by the Respondent through the exercise of due care ("Force Majeure Event").

B. The requirement that Respondent exercise efforts to fulfill the obligation includes using efforts to anticipate the potential Force Majeure Event, efforts to address any such event as it is occurring, and efforts following the Force Majeure Event to minimize delay to the greatest extent possible. As referenced above, Respondent's efforts to fulfill its obligations includes using diligent, good faith actions to anticipate the potential Force Majeure event and minimize delays to the extent reasonably possible. "Force Majeure" does not include Respondent's economic inability to comply with any obligation; failure to perform work due to obligations in other states or with respect to other agreements with state or federal governments; the failure of Respondent to make, complete, or timely file an application for any required approval or permit; and non-attainment of the goals, standards, and requirements of this Order and Settlement (unless the non-

attainment is caused by the Force Majeure Event).

C. Respondent must notify the Department as soon as practicable by email or other writing, but in any event no later than fifteen (15) days after it obtains knowledge of any Force Majeure Event. Respondent must, as applicable, include in such notice the measures taken and to be taken to prevent or minimize any delays and shall request an appropriate extension or modification of this Order and Settlement. Failure to give such notice within such fifteen (15) day period constitutes a violation of the Order and Settlement and is a waiver of any claim that a delay is not subject to penalty.

Respondent shall be deemed to know of any circumstance that it, any entity controlled by it, or its contractors knew or should have known by exercise of reasonable diligence.

D. Respondent shall have the burden of proving, by a preponderance of the evidence, that (i) the delay or anticipated delay has been or will be caused by a Force Majeure Event; (ii) the duration of the delay or the extension sought is supported by the circumstances; (iii) efforts were exercised to avoid and mitigate the effects of the delay; and (iv) Respondent complied with the requirements of Section XIII(C) regarding timely notification.

E. If the Department agrees that the delay or anticipated delay is attributable to a Force Majeure Event, the time for performance of the obligations that are affected by the Force Majeure Event shall be extended for such time as is reasonably necessary to complete those obligations.

F. If the Department rejects Respondent's assertion that an event provides a defense to non-compliance with this Order and Settlement, Respondent will be in violation of this Order and Settlement unless it invokes dispute resolution pursuant to Section XVII and Respondent's position prevails.

XIV. Reservation of Rights

A. Nothing contained in this Order and Settlement shall be construed as barring, diminishing, adjudicating or in any way affecting (i) any legal, administrative or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone other than Respondent; (ii) any right of the Department to enforce administratively or at law or in equity, the terms, provisions and conditions of this Order and Settlement; (iii) any right of the Department to bring any future action, either administrative or judicial, for natural resource damages, or for any other violations of the ECL, the rules and regulations promulgated thereunder, or conditions contained in orders or permits, if any, issued by the Department to Respondent; (iv) the summary abatement powers of the Department, either at common law or as granted pursuant to statute or regulation.

B. Except as otherwise provided in this Order and Settlement, Respondent reserves all rights and defenses under applicable law regarding remedial liability and/or natural resource damages and further reserves all rights respecting the enforcement of this Order and Settlement, including the rights to notice, to be heard, to appeal, and to any other due process.

XV. Indemnification

To the fullest extent permitted by law, Respondent shall indemnify and hold the Department, the Commissioner, the State of New York, and their representatives and employees harmless for all claims, suits or actions for personal injury or property damage and costs, arising out of, or resulting from, Respondent's fulfillment or attempted fulfillment of this Order and Settlement, except for those claims, suits, actions and costs arising from the gross negligence or willful or intentional misconduct by the State of New York and/or its representatives and employees during the course of any activities conducted pursuant to this Order and Settlement.

XVI. Progress Reports and Communications

A. In addition to any reports required by individual work plans approved pursuant to this Order and Settlement, Respondent must provide monthly reports to the parties identified in this Section.

B. The monthly reports are to be submitted on or before the last business day of the month in question, with the first submission by the end of the first full month following the Effective Date of this Order and Settlement.

C. All monthly reports must, at a minimum, include a description of the following: safety record, status of major activities (e.g., reactor segmentation, building demolition, spent nuclear fuel loading, waste management), project schedule, project budget (including a comparison of budgeted costs against actual costs), and regulatory compliance. Department acknowledges that the monthly reports will typically report on progress through the end of the preceding month.

D. Following the submission of each monthly report, the Department may request that one or more members of Respondent's team be made available at a mutually agreeable time and place (which may be in-person or by teleconference or videoconference) to answer any questions the Department may have about the report, and Respondent must comply with such requests.

E. Communications

1. All written communications required by this Order and Settlement shall be transmitted by electronic transmission whenever possible, including e-mail.

2. Communication from Respondent to the Department shall be sent to:

Lynn Winterberger
NYS Department of Environmental Conservation
Division of Materials Management
625 Broadway
Albany, NY 12233-7256
lynn.winterberger@dec.ny.gov

Timothy Rice
NYS Department of Environmental Conservation
Division of Materials Management
625 Broadway
Albany, NY 12233-7255
timothy.rice@dec.ny.gov

With copies to:

Andrew Guglielmi, Esq.
NYS Department of Environmental Conservation
Office of General Counsel
625 Broadway
Albany, NY 12233-1500
andrew.guglielmi@dec.ny.gov

Cynthia A. Costello, MS, MPH, CHP
Chief, Environmental Radiation/Radon Section
NYS Department of Health
Bureau of Environmental Radiation Protection
Corning Tower, Room 1218
Empire State Plaza
Albany, NY 12237
Phone (518) 402-7556
cynthia.costello@health.ny.gov

3. Communication from the Department to Respondent shall be sent to:

Holtec Decommissioning International, LLC
Attn: Andrea L. Sterdis, Vice President Regulatory and Environmental Affairs
1 Holtec Blvd.
Camden, NJ 08104
a.sterdis@holtec.com

Holtec Decommissioning International, LLC
Attn: Katherine L. Perkins, Esq.
1 Holtec Blvd.
Camden, NJ 08104
k.perkins@holtec.com

F. The Department and Respondent reserve the right to designate additional or different addressees for communication on written notice to the other.

G. Each party shall notify the other within thirty (30) days after any change in the addresses listed in this Section.

H. The Department has implemented an Environmental Information Management System (EIMS). The EIMS requires that electronic data be provided in specific formats. In an effort to better manage environmental data, the Department requests that Respondent make reasonable efforts to provide data submissions in a Department-accepted Electronic Data Deliverable (EDD) format. Respondent shall make reasonable efforts to supply Work plans and reports (including all attachments and appendices) required by the Order and Settlement in an accessible electronic format. Respondent may instead provide the Department with a paper copy if difficulties in providing the submittals through the EIMS are encountered. The Department reserves the right to request that Respondent provide a paper copy of any Work Plan or report.

XVII. Dispute Resolution

A. In the event a dispute arises under this Order and Settlement, the parties will first undertake to resolve such dispute through informal negotiations. Respondent may commence this negotiation by sending the Department written notice describing the objection(s) in reasonable details. Within fifteen (15) days of receipt of the notice, the parties shall commence good faith discussions at a mutually agreeable time and place.

B. If the dispute is not resolved within thirty (30) days of the date of the meeting described above, Respondent may, initiate formal dispute resolution in accordance with the provisions of 6 NYCRR 375-1.5(b)(2).

C. All costs incurred by the Department associated with dispute resolution are State costs subject to reimbursement (and subject to the “do not exceed” figure in Section XI above) pursuant to this Order and Settlement.

D. Nothing contained in this Order and Settlement shall be construed to authorize Respondent to invoke dispute resolution with respect to any remedy selected by the Department in the SOB/ROD, or any element of such remedy, nor to impair any right of Respondent to seek judicial review of the Department's selection of any remedy. As used herein, "remedy" means the technical approach to address contamination subject to RCRA (or New York's analogous regulations).

E. With respect to disputes relating to State costs the provisions of 6 NYCRR 375-1.5 (b)(3) apply.

XVIII. Modifications

A. The terms of this Order and Settlement constitute the complete and entire agreement between Department and Respondent with respect to the matters contained herein. No term, condition, understanding, or order purporting to modify or vary any term of this Order and Settlement shall be binding unless made in writing and signed by both parties.

B. No informal advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, or any other submissions shall be construed as relieving Respondent of their obligation to obtain such formal approvals as may be required by this Order and Settlement.

C. If Respondent desires that any provision of this Order and Settlement be changed, Respondent must make timely written application to the Department setting forth reasonable grounds for the relief sought. Respondent has the burden of proving entitlement to any modification requested. Copies of such written application shall be sent to the New York State Department of Environmental Conservation at the addresses provided in Section XVI(E).

D. Respondent's request for modification shall not be unreasonably denied by the Department, which may impose such additional conditions upon Respondent as the Department deems appropriate. Notwithstanding the foregoing, if Respondent seeks to

modify an approved Work Plan, a written request must be made to the Department's project manager, with copies to the parties listed in Section XVI(E).

E. No change or modification to this Order and Settlement shall become effective except as specifically set forth in writing and approved by the Commissioner or a duly authorized representative.

XIX. Tolling Agreement

Any time limitations set forth in Section 113(g)(1) of CERCLA, as amended, 42 U.S.C. § 9613(g)(1), Section 1012(h)(2) of the Oil Pollution Act, as amended, 33 U.S.C. § 2712(h)(2), the Federal Water Pollution Control Act, the New York Navigation Law, the New York Environmental Conservation Law, or any other federal or state statute or regulation with respect to potential claims for natural resource damages against Respondent or any other time limitations for the filing of potential natural resource damages claims against Respondent under any other applicable state or federal law are tolled in their entirety until termination of this Order and Settlement. This tolling agreement shall not serve to revive any claims that are untimely as of the effective date of this Order and Settlement.

XX. Permits

Permits issued by the Department and currently held by Seller shall be transferred to Purchaser or its designees as described in the letter attached hereto as Exhibit D.

XXI. Miscellaneous

A. Respondent shall retain (as employees or contractors) qualified professional consultants, engineers, contractors, laboratories, quality assurance/quality control

personnel, third party data validators, and ELAP³ Certified Analytical Laboratories to perform the technical, engineering, and analytical obligations required by this Order and Settlement. The Department may object to Respondent using certain persons or firms and Respondent agrees to undertake good faith efforts to find a replacement. If no qualified replacement is available, Respondent will consult Department about alternatives. The responsibility for the performance of the professionals retained by Respondent rests solely with Respondent.

B. The Department has the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by Respondent, and the Department also has the right to take its own samples. Respondent must make available to the Department the results of all sampling and/or tests or other data generated by Respondent with respect to implementation of this Order and Settlement and must submit these results in the progress reports required by this Order and Settlement. Respondent has the right to obtain split samples, duplicate samples, or both of all substances and materials sampled by the Department, and the Department will promptly make available to Respondent the results of all sampling, tests or other data generated by the Department with respect to this Order and Settlement.

C. Respondent must obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform Respondent's obligations under this Order and Settlement.

D. Notwithstanding Section IX above, if there are multiple parties signing this Order and Settlement the obligations of each party under this Order and Settlement are joint and several, and the insolvency of or failure by any Respondent to implement any

³ The Environmental Laboratory Accreditation Program (ELPA) was established in 1984 under NYCL, Public Health Law - PBH § 502 and is responsible for the certification of laboratories performing environmental analyses on samples originating from New York State.

obligations under this Order and Settlement shall not affect the obligations of the remaining Respondent under this Order and Settlement.

E. The provisions, terms, and conditions of this Order and Settlement shall be deemed to bind Respondent and Respondent's heirs, legal representatives, receivers, trustees in bankruptcy, successors, and assigns.

F. Subject to Section IX, any change in ownership including, transfer of assets or real property at IPEC shall in no way alter Respondent's responsibilities under this Order and Settlement.

G. Respondent is responsible for ensuring that its contractors and subcontractors perform the work in satisfaction of the requirements of this Order and Settlement.

H. All references to "days" in this Order and Settlement are to calendar days unless otherwise specified.

I. The Section headings set forth in this Order and Settlement are included for convenience of reference only and shall be disregarded in the construction and interpretation of any of the provisions of this Order and Settlement.

J. The Effective Date of this Order and Settlement shall be the later of the date that the Commissioner or his designee signs this Order and Settlement or the date the Transaction closes. The Department will provide Respondent (or Respondent's counsel) with a fully executed electronic copy of this Order and Settlement as soon as practicable after the Commissioner or his designee signs it.

K. In the event of an inconsistency between the provisions of any attachment or appendix of this Order and Settlement and any term, condition, or provision contained in Sections I through XX of this Order and Settlement, the term, condition, or provision contained in that Section, and not that in any attachment or appendix of this Order and Settlement, shall control.

L. Respondent and Respondent's corporate successors and assigns hereby affirmatively waive any right they had, have, or may have to make a claim against the New York environmental protection and spill compensation fund, pursuant to New York

State Navigation Law, Article 12, Part 3, Sections 179 and 179-A.

M. This Order and Settlement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument. Electronic signatures are acceptable.

N. Service of a duly executed copy of this Order and Settlement upon Respondent's counsel by electronic mail, shall be deemed good and sufficient service.

[Signatures Follow]

DATED: April 14, 2021

Albany, New York

Commissioner
New York State Department of
Environmental Conservation

By: 

Basil Seggos
Commissioner

EXHIBIT “A”

Map of IPEC subject to this Order and Settlement

EXHIBIT A

Indian Point Energy Center



Notes:

1. Property boundary locations are approximate, and do not necessarily represent the limits of the required extent of investigation or remediation. If site-related contamination is discovered during investigatory activities at or near the boundaries, the Department may require further investigation beyond the boundary to confirm corrective actions are required in those areas.
2. Indian Point Energy Center boundaries adjacent to the Hudson River coincide with the approximate high-water line.

EXHIBIT A

Indian Point Energy Center

3. The boundary line for the ISFSI is the anticipated fence line after expansion.
4. The dark blue line is the approximate location of property owned by the State of New York through the New York State Energy Research and Development Authority (NYSERDA), and represents the discharge canal and associated property currently leased by Entergy from NYSERDA. This property will be subject to further refinement and survey, as investigatory actions progress.

EXHIBIT "B"

CONSENT OF OWNER

The party executing this form, _____, hereby consents to being added as a Respondent to the Order on Consent and Administrative Settlement, Index No. _____ regarding the Indian Point Energy Center, and further consents to the issuing and entering of the referenced Order and Settlement, waives Respondent's right to a hearing herein as provided by law, and agrees to be bound by this Order and Settlement.

By: _____

Title: _____

Date: _____

STATE OF NEW YORK)

) s.s.:

COUNTY OF)

On the _____ day of _____, in the year 20 __, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual taking acknowledgment

EXHIBIT "C"

Correspondence regarding prior orders

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel

625 Broadway, 14th Floor, Albany, New York 12233-1500

P: (518) 402-9185 | F: (518) 402-9018

www.dec.ny.gov

April 9, 2021

Peter C. Trimarchi, Esq.
Partner
Nixon Peabody LLP | 677 Broadway, 10th Floor
Albany, NY 12207-2996

ptrimarchi@nixonpeabody.com

Re: Close out of Indian Point Consent Orders with Entergy

Dear Mr. Trimarchi –

This letter is sent to confirm that Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC (collectively “Entergy”) have complied with the Consent Orders issued by the Department of Environmental Conservation (DEC) to date regarding the Indian Point Energy Center.

These Consent Orders include a 2011 mixed waste order, and a 2011 and 2015 enforcement order relating to releases from equipment, including transformers at the Indian Point Entergy Center. Specifically, Entergy has transported and disposed of the known mixed waste present which was required to be disposed of in the 2011 mixed waste order and Entergy paid the required penalties and damages and took whatever corrective actions were necessary arising from releases related to the 2011 and 2015 enforcement orders. DEC considers these orders closed.

Please note that Entergy has ongoing obligations related to the 2017 agreement between New York State and Entergy (which required the wind down and cessation of nuclear power operation of Indian Point) regarding monitoring and environmental benefit projects that New York and others are administering.

Additionally, please note that nothing in this letter waives rights that DEC may have against Entergy, Holtec, or any other party that are available under applicable law.

Sincerely,

Andrew Guglielmi

Andrew Guglielmi

Chief, Bureau of Remediation

EXHIBIT “D”

Correspondence regarding permit transfers



NIXON PEABODY LLP
ATTORNEYS AT LAW

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Peter C. Trimarchi
Partner
T 518-427-2671
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677 Broadway, 10th Floor
Albany, NY 12207-2996
518-427-2650

April 8, 2021

VIA EMAIL

Christopher Hogan
Chief, Bureau of Energy Projects
Management
NYS Department of Environmental
Conservation
625 Broadway, 14th Floor
Albany, NY 12233-1500

Andrea L. Sterdis
Vice President Regulatory and Environmental
Affairs
Holtec Decommissioning International
Krishna P. Singh Campus
1 Holtec Boulevard
Camden, NJ 08104

RE: Indian Point Energy Center - Transfer of SPDES Permits (0004472, 0234826, 0250414), 401 Water Quality Certificate, Air State Facility Permits (#3-5522-00011/00026), and Major Oil Storage Facility License (3-2140), Water Withdrawal Permit application and Endangered Species Permit application (the “DEC Permits”)

Dear Chris:

As you are aware, Holtec International, Nuclear Asset Management Company, LLC, Entergy Nuclear Indian Point 2, LLC (“ENIP 2”) and Entergy Nuclear Indian Point 3, LLC (“ENIP 3”) signed an agreement in 2019 by which Nuclear Asset Management Company, LLC (a subsidiary of Holtec International) (“NAMco”) would acquire ownership of the Indian Point Energy Center (the “Transaction”). This letter is intended to memorialize the agreement between the New York State Department of Environmental Conservation (“DEC”), the Entergy entities identified as permittees under the above-referenced DEC Permits and applications (collectively, “the DEC Permits”), Holtec International, and NAMco regarding the procedures for transferring the DEC Permits following the closure of the sale of the Indian Point Energy Center.

As we have discussed, Entergy Corporation is in the process of undertaking an internal restructuring, which has resulted in the creation of two new Entergy subsidiaries – Indian Point 1&2 LLC and Indian Point 3 LLC (the “New Entergy Subsidiaries”). Prior to the closing of the Transaction, Entergy Corporation will have transferred the assets and liabilities of ENIP 2 and ENIP 3 to the New Entergy Subsidiaries. NAMco will then acquire the membership interests of the New Entergy Subsidiaries upon the closing of the Transaction. To complete the transfer of the DEC Permits, DEC, ENIP 2, ENIP 3, and Holtec International/NAMco agree that the parties will each take the following actions:

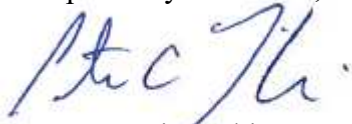
- No less than 30 days prior to the anticipated closing date of the Transaction, ENIP 2, ENIP 3, and, as necessary, Entergy Nuclear Operations Inc. (“ENOI”) will submit separate permit transfer requests for each of the DEC Permits on DEC form “Application for Permit Transfer and Application for Transfer of Pending Application.” The forms will identify ENIP 2, ENIP 3, and/or ENOI as the “Transferor,” and the New Entergy Subsidiaries as the “Transferee.” ENIP 2, ENIP 3, and ENOI will submit the forms to you and to the Regional Permit Administrator in Region 3.
- Upon Entergy’s completion of the transfer of assets and liabilities of ENIP 2 and ENIP 3 to the New Entergy Subsidiaries, Entergy will notify DEC that the transfer has taken place.
- Upon receipt of such notice, DEC will immediately (i.e., same day) provide to ENIP 2, ENIP 3, ENOI, and the New Entergy Subsidiaries a copy of the Application for Permit Transfer and Application for Transfer of Pending Application that has been fully approved and counter-signed by DEC.
- Upon completion of the closing of the Transaction (expected to be completed 24 hours after the transfer of assets and liabilities to the New Entergy Subsidiaries has been completed), NAMco will provide notice to DEC that the closing has occurred.

The New Entergy Subsidiaries will be subsidiaries of Entergy until the closing of the Transaction, at which point they will become subsidiaries of NAMco. In the unlikely event a permit violation was to occur following the transfer of the assets and liabilities to the New Entergy Subsidiaries, but before closing (a situation that would seem unlikely given that Unit 3 will be shut down at that point), the New Entergy Subsidiaries would be responsible for such violations as the permittees on the DEC Permits.

If this letter accurately sets forth your understanding of the parties’ intentions and agreements with respect to the transfer of the DEC Permits, please sign the acknowledgment below and forward a copy to my attention at your earliest convenience.

Thanks very much for your assistance and cooperation in this matter.

Respectfully submitted,



Peter C. Trimarchi
Counsel for Entergy Corporation

PCT/kmp

Christopher Hogan
April 8, 2021
Page 3

NIXON PEABODY LLP
ATTORNEYS AT LAW

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cc: Mark Sanza, Esq.
Gene Kelly, Esq. (Counsel for Holtec International)
Andrea Sterdis (Holtec International)
Susan Floyd, Esq. (Senior counsel for Entergy)
Carlos Garcia (Entergy)
Anthony DeNully (Entergy)

Acknowledged and agreed to by the NYS
Department of Environmental Conservation

Christopher M. Hogan

Name: Christopher M. Hogan
Title: Chief, Bureau of Energy Project Management
Date: April 8, 2021

Acknowledged and agreed to by Nuclear Asset
Management Company, LLC

**Andrea
Sterdis**

Digitally signed by Andrea Sterdis
DN: cn=Andrea Sterdis, o=US,
o=Holtec Decommissioning
International, ou=HDI,
email=ast@holtec.com
Date: 2021.04.13 11:24:00 -0400

Name: Andrea L. Sterdis
Title: VP Regulatory and Environmental Affairs
Date: April 13, 2021