

Holtec Blasts NJ Town's 'Unfounded' Nuclear Plant Paranoia

By [Caleb Drickey](#)

Law360 (September 17, 2020, 5:41 PM EDT) -- Nuclear energy supplier [Holtec International](#) slammed a New Jersey town's decision to deny land use permits for nuclear fuel storage facilities, telling a federal court that the rejection was a regulatory overreach and a potentially dangerous hindrance to the safe shutdown of an aging reactor.

In a complaint and motion for a temporary restraining order filed Wednesday and Thursday, respectively, Holtec alleges the Lacey Township Planning Board improperly assumed powers reserved for the [Nuclear Regulatory Commission](#) to shut down the Oyster Creek Nuclear Plant's decommission process based on ill-informed safety concerns.

"Defendants aggressively and improperly stepped into the shoes of the NRC and denied [Holtec's] minor site plan application based on unfounded paranoia over current and future radiological safety," the complaint said.

The Atomic Energy Act and Nuclear Waste Policy Act empower the NRC alone to regulate radiological safety conditions and construction operations at nuclear power plants, but municipal governments retain authority over matters of land use. Holtec argues Lacey's citizen council overstepped its limited authority.

According to Holtec, the town planning board "did not even consider, let alone base their decision on, any aspect of their local land use and development regulations."

Indeed, Holtec alleges the board neglected to ask "a single question about whether the application complied with their local land use and development applications."

Instead of debating whether Holtec's proposed construction of spent-fuel storage tanks violated local land rules, Holtec says the board focused exclusively on the potential dangers of storing radioactive waste at the plant, including the potential impact of a terrorist attack on the storage tanks. Holtec believes that this "improper and troubling" focus on matters of radiological safety in fact endangered the company's attempt to shut down the aging plant.

Oyster Creek, which Holtec [purchased](#) from [Exelon Generation Co.](#) in 2018, is in the preliminary stages of a 60-year decommissioning process scheduled for completion in 2078. Part of that process is the storage and maintenance of spent nuclear fuel until the federal government establishes a long-term [storage](#) site.

Holtec argues that decades of congressional action and judicial precedent have definitively established that local governments are "not qualified to legislate and/or act" on matters related to the decommissioning of nuclear power plants and that the board's decision "injected their own standards on radiological safety to the actual detriment of the ... decommissioning and spent fuel campaign."

Despite Holtec's insistence on its compliance with all federal safety regulations, the company has come under fire for inadequate planning during other nuclear plant decommission and cleanup operations. In June, Holtec and the state of Massachusetts [agreed](#) on a \$193 million environmental cleanup fund after the company was criticized for neglecting to include the possibility of freak disaster events in its calculation of cleanup costs.

Holtec's lawsuit and motion for a temporary restraining order seek the immediate reversal of township orders denying the construction of new spent-fuel storage facilities or dry runs of spent-fuel transfer processes.

Representatives and counsel for Holtec and Lacey Township did not respond to requests for comment on Thursday.

Holtec is represented by Richard W. Hunt of [Parker McCay PA](#).

Counsel information for Lacey Township was not available Thursday.

The case is Holtec International v. Holtec Decommissioning International LLC et al., case number [3:20-cv-12773](#), in the [U.S. District Court for the District of New Jersey](#).

--Editing by Janice Carter Brown.