



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

February 7, 2022

Mefford Runyun
Orleans Town Hall
19 School Road
Orleans, MA 02653

Dear Mr. Runyun

I am responding to your January 18, 2022, letter to EPA Administrator Regan, in which the Town of Orleans expresses its opposition to Holtec's plan to discharge spent fuel pool water from the Pilgrim Nuclear Power Station (PNPS) into Cape Cod Bay.

EPA Region 1 shares your commitment to protect and maintain the environmental integrity of this important water body. Before providing an update on the status of Holtec's request to discharge spent fuel pool water, some background could be useful.

Holtec's decommissioning process is subject to an interlocking set of statutes and regulations to ensure any discharges of pollutants or radiological releases fully comply with the law and protect human health and the environment. The Clean Water Act (CWA) generally prohibits the discharge of "pollutants," as that term is defined in the statute, into the waters of the United States unless authorized by a National Pollutant Discharge Elimination System (NPDES) Permit. These CWA permits protect water quality through the imposition of effluent limitations and permit conditions, which, among other things, implement applicable state water quality standards and other applicable requirements.

While the NPDES Permit limits the types and amounts of pollutants that Pilgrim Nuclear Power Station may discharge and places conditions on the use of its cooling water intake structure, EPA's authority to regulate the facility under the CWA does not extend to radioactive materials regulated by a separate federal agency under a different statute—the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954 (AEA). Spent fuel pool water could contain "pollutants" under the CWA or "radioactive materials" under the AEA, or both. If a discharge contains CWA-regulated pollutants, then it must be authorized under an NPDES permit in order to be lawful.

On January 30, 2020, EPA reissued the NPDES Permit for the discharge of pollutants regulated by the CWA from PNPS. The permit does *not* authorize Holtec to discharge CWA-regulated pollutants in spent fuel pool water or associated with other activities related to the decommissioning at PNPS, including, but not limited to, contaminated site dewatering, pipeline and tank dewatering, collection structure dewatering, dredge-related dewatering, or dismantlement and decontamination of plant systems and structures. Upon learning that Holtec was contemplating the discharge of spent fuel pool water,

representatives from EPA Region 1 immediately contacted the company and met with them to underscore that the NPDES Permit, jointly issued with the Massachusetts Department of Environmental Protection (MassDEP), does not authorize the discharge of CWA-regulated pollutants in spent fuel pool water. During the meeting, MassDEP also advised that such discharge is not authorized under state authority.

Recent press reports indicate the company has also been in dialogue with elected officials, and on January 12, 2022, it was reported that Holtec stated that it is continuing to delay any decision on whether to discharge and will not plan to discharge any process water in 2022. In the meantime, you should be assured that EPA is monitoring this situation closely and fully expects that Holtec will remain in dialogue with EPA, in addition to NRC and the Massachusetts Department of Environmental Protection, as necessary, to apprise the agencies of its plans regarding PNPS's spent fuel pool water. To ensure that there is no misunderstanding about our position, we have transmitted a copy of this letter to Holtec as well.

I hope this email helps addresses your concerns.

Should you have further concerns or questions, please contact Damien Houlihan via email at houlihan.damien@epa.gov or by phone at 617-918-1586.

Sincerely

A handwritten signature in cursive script that reads "Deborah A. Szaro".

Deb Szaro

Deputy Regional Administrator

Cc: Lealdon Langley, Massachusetts Department of Environmental Protection
Seth Pickering, Massachusetts Department of Environmental Protection
Jack Priest, Massachusetts Department of Public Health
David Noyes, Pilgrim Station, Comprehensive Decommissioning International
Andrea Sterdis, Holtec Decommissioning International, LLC