



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of National Marine Sanctuaries
Stellwagen Bank National Marine Sanctuary
175 Edward Foster Rd Scituate, Massachusetts 02066

March 14, 2022

Mr. David Lew
Regional Administrator
U.S. Nuclear Regulatory Commission Region I
2100 Renaissance Blvd., Suite 100
King of Prussia, PA 19406-2713

Dr. David Cash
Regional Administrator
Environmental Protection Agency Region 1
5 Post Office Square - Suite 100
Boston, MA 02109-3912

Re: Potential Discharge of Radioactive Water From Pilgrim Nuclear Power Station

Dear Administrators Lew and Cash,

I am writing to express my concerns regarding the decommissioning activities by Holtec Decommissioning International (Holtec) at the Pilgrim Nuclear Power Station (Pilgrim) located in Plymouth, Massachusetts. Recently, several media outlets have reported that Holtec plans to discharge spent fuel pool cooling water into Cape Cod Bay under Nuclear Regulatory Commission (NRC) license No. DPR-35 and National Pollutant Discharge Elimination System (NPDES) Permit No. MA0003557. Members of the public and the State of Massachusetts have expressed concerns that this discharge may contain radioactive materials in addition to other “pollutants”¹ that risk harm to the marine ecosystem. In response to that concern, Holtec,² the current holder of Pilgrim's operating license, has represented to the public that it will consider other options in addition to discharge, including onsite evaporation or trucking the waste water offsite.³

While I support Holtec considering and using alternative disposal measures, I remain troubled by the lack of transparency on Holtec's plans for handling this wastewater. I understand that under NRC regulations Holtec is required to disclose its decommissioning plans and that NRC must conduct additional environmental reviews under the National Environmental Policy Act (NEPA; 42 U.S.C. § 4321 et seq.), if the

¹ As defined by the Clean Water Act at 33 U.S.C. § 1362(6); 40 CFR § 122.2.

² In 2019, NRC approved the transfer of Pilgrim's license from Entergy Nuclear Operations, Inc. and Entergy Nuclear Generation Company to Holtec Pilgrim, LLC, Holtec International, and Holtec Decommissioning International, LLC. <https://www.nrc.gov/docs/ML1917/ML19170A265.pdf>
³<https://www.wickedlocal.com/story/old-colony-memorial/2022/02/01/nuclear-advisory-group-expl-ores-pros-and-cons-wastewater-disposal-options-pilgrim-nuclear-power-plan/9291899002/>



environmental impacts associated with site-specific decommissioning are not bounded by appropriate previously issued environmental impact statements.⁴ I have been unable to locate a report from Holtec that describes scheduling the disposal of spent fuel pool water, or any determination of whether the potential environmental impacts of disposal of spent fuel pool water are bounded by prior NEPA analysis. I have also been unable to find an existing environmental analysis of the impacts of spent fuel pool discharges to the marine environment after a review of published NEPA documents.⁵

Additionally, Holtec has suggested that these discharges are covered by their existing Clean Water Act permit,⁶ but NPDES Permit No. MA0003557 expressly excludes spent fuel pool cooling water.⁷ I am grateful that EPA staff provided me with a detailed and informative letter sent to Holtec on February 17, 2022, describing the scope of the NPDES permit and emphasizing this exclusion but I have yet to see a response from Holtec acknowledging EPA's position.⁸

I am also troubled by the lack of information from Holtec on contaminants (both radioactive and non-radioactive) in the spent fuel pool water and the absence of environmental analysis of the potential risks of such a discharge to the marine environment in Cape Cod Bay that will eventually enter Stellwagen Bank National Marine Sanctuary.

Designated by Congress in November 1992, Stellwagen Bank National Marine Sanctuary is approximately 638 square nautical miles in area, encompassing the waters at the mouth of Massachusetts Bay between Cape Ann and Cape Cod. It is an area of high primary and secondary productivity as well as biological diversity. It serves as critical habitat for a wide variety of marine mammals, seabirds, fish, and invertebrates,

⁴ Our understanding is that under 10 CFR 50.82(a)(4)(i), licensees are required to submit to NRC Post-Shutdown Decommissioning Activities Reports (PSDARs) providing a schedule for decommissioning activities and estimated costs. The PSDARs must provide the reasons why it has concluded that the environmental impacts associated with site-specific decommissioning "will be bounded" by appropriate previously issued environmental impact statements. If the licensee cannot so conclude, it must prepare and provide the necessary additional environmental analysis, "describing and evaluating the additional environmental impacts." The regulations prohibit major decommissioning activities that could result in significant environmental impacts not previously reviewed. See also 61 Fed. Reg. 39,278, 39,283 (1996).

⁵ NUREG-0586, Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities: Supplement 1, Regarding the Decommissioning of Nuclear Power Reactors; NUREG-1496, Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities; NUREG-1437, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 29, Regarding Pilgrim Nuclear Power Station, Final Report, July 2007.

⁶ Id.

⁷ NPDES Permit MA0003557 at 27.

<https://www3.epa.gov/region1/npdes/permits/2020/finalma0003557permit.pdf>

⁸ Letter from Ken Moraf, EPA Water Director, Region 1, EPA, to Kelly Trice, Holtec, dated February 17, 2022.

including humpback and the highly endangered North Atlantic right whales. In addition, there are a number of commercial and recreational uses that occur within the sanctuary that drive local economies, including boating, whale watching, and the highly productive commercial and recreational fishing industries.

I would like to also notify you of relevant statutory and regulatory requirements related to the protection of the resources and qualities of Stellwagen Bank National Marine Sanctuary. Firstly, the National Marine Sanctuaries Act (16 U.S.C. §§ 1431-1445c; NMSA) prohibits the destruction, loss of, or injury to any sanctuary resource ... and prohibits any violation of the Act, any regulations, or permits issued thereunder (16 U.S.C. § 1436). In addition, section 2202(e) of the Oceans Act (Pub.L 102-587) requires federal agencies to consult with NOAA's Office of National Marine Sanctuaries on federal agency actions internal or external to the Stellwagen Bank National Marine Sanctuary that **may affect** any sanctuary resource. If Federal action agencies determine that their proposed action will trigger the requirement for consultation, they must provide NOAA with a written statement describing the action and its potential effects on sanctuary resources. Please see <https://sanctuaries.noaa.gov/management/consultations/> for additional information regarding this consultation process.

Finally, sanctuary regulations prohibit discharging or depositing, from beyond the boundary of the Sanctuary, material⁹ or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality (15 CFR § 922.42(a)(1)(ii)). Prohibited discharges may be allowed pursuant to a sanctuary permit (15 CFR §§ 922.48 and 922.143). Please see <https://stellwagen.noaa.gov/management/permits.html> for additional information regarding this permitting process.

I encourage NRC and EPA to ensure that Holtec complies with these applicable NEPA and NMSA regulatory requirements and undertakes the most environmentally responsible action for the ultimate disposition of this water. This would ensure that potential environmental effects of the options for disposal of spent fuel pool water are meaningfully considered, and that the decision-making process is transparent to the public, and all interested state and Federal regulatory agencies.

As stewards of the marine environment, we are committed to protecting the resources and habitat of Stellwagen Bank National Marine Sanctuary. I ask that you engage with us at any point that is appropriate with other federal and state agencies, as well as with opportunities for public input into Holtec's final actions.

⁹ The NMSA (16 USC 1432 Note) adopts the definition of *material* from the Ocean Dumping Act, 33 USC 1402 (the Ocean Dumping Act was passed as part of the 1972 Marine Protection, Research, and Sanctuaries Act). The definition of material under Section 1402 of the Ocean Dumping Act includes radioactive materials.

I greatly appreciate the interagency dialogue to date between me and your respective staffs and I welcome hearing from you to discuss any questions or concerns you may have. You may contact me at 781-635-0163 or at pete.decola@noaa.gov.

Sincerely,

DECOLA.PETER.NICHOLAS.
1008445474

Digitally signed by
DECOLA.PETER.NICHOLAS.1008445474
Date: 2022.03.14 07:54:19 -04'00'

Captain Peter DeCola
U.S. Coast Guard (retired)
Superintendent,
Stellwagen Bank National Marine Sanctuary

cc:

Todd Callaghan, Massachusetts Department of Coastal Zone Management

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

Mike Pentony, Greater Atlantic Regional Fisheries Office

Jon Hare, Northeast Fisheries Science Center

Matt Brookhart, Eastern Regional Director, Office of National Marine Sanctuaries