



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100

Boston, MA 02109-3912

July 26, 2022

Heather Govern, Vice President
Clean Air and Water Program
Conservation Law Foundation
62 Summer Street
Boston, MA 02110

Erica Fuller, Senior Attorney
Oceans Program
Conservation Law Foundation
62 Summer Street
Boston, MA 02110

Dear Ms. Govern and Ms. Fuller:

Thank you for your June 1, 2022, letter in which you express your concern about the potential discharge of radioactive wastewater from the Pilgrim Nuclear Power Station (Pilgrim) in Plymouth, Massachusetts by Holtec Decommissioning International (Holtec). The US Environmental Protection Agency (EPA) is likewise concerned about potential wastewater discharges during the decommissioning of Pilgrim and the possible impacts to Cape Cod Bay.

As you know, in Massachusetts, EPA Region 1 administers the Clean Water Act's (CWA) National Pollutant Discharge Elimination System (NPDES) permit program, which, broadly speaking, regulates the discharge of "pollutants" from point sources to waters of the United States. EPA Region 1 last re-issued the NPDES Permit for Pilgrim (Permit No. MA0003557) in January 2020. As you may also know, the term "pollutant" in the CWA excludes "radioactive materials" regulated by the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954. Thus, while EPA has jurisdiction over the discharge of "pollutants" from Pilgrim to Cape Cod Bay, it cannot regulate the discharge of such radioactive materials – that is the purview of the NRC. Consequently, the NPDES Permit does not include any numeric limits on radioactive materials. As spent fuel pool and other decommissioning-related wastewater may, however, contain CWA-regulated pollutants in addition to radioactive materials regulated by the NRC, the NPDES Permit does include conditions relevant to the discharge of this wastewater. In particular, the NPDES Permit includes in Part I.B several conditions prohibiting Holtec from discharging CWA-regulated pollutants in spent fuel pool water and other sources. The basis for these conditions is explained in the Response to Comments document accompanying the Final Permit.

EPA Region 1 has been in contact with Holtec to discuss Holtec’s responsibilities under these provisions of Pilgrim’s current NPDES permit and the Clean Water Act more broadly. In November 2021, EPA Region 1 staff, along with staff from the Massachusetts Departments of Environmental Protection and Public Health (MassDEP and MassDPH), met with representatives from Holtec to obtain more information about Holtec’s plans for such wastewater and to clarify the scope of authorization provided to Holtec in its NPDES Permit.¹ In particular, it was explained to Holtec at that meeting that the current NPDES Permit prohibits the discharge of CWA-regulated pollutants in spent fuel pool water and in other waste streams associated with decommissioning. In addition, following subsequent media reports and public statements from Holtec about the continuing potential for discharge, EPA provided further clarification to Holtec by letter—first on February 17, 2022, and again on June 17, 2022. In each case, EPA reiterated that discharges of spent fuel pool water are currently “explicitly prohibited by the company’s Clean Water Act (CWA) discharge permit, unless there are no CWA-regulated pollutants present.”²

EPA also outlined the steps Holtec would need to take to obtain authorization from EPA to discharge pollutants in spent fuel pool water and other waste streams not currently authorized. Specifically, EPA noted that, any discharge of spent fuel pool water containing pollutants regulated under the CWA will require an analysis by EPA to determine whether a modification to the facility’s current NPDES Permit is appropriate. Consequently, EPA informed Holtec that any request for authorization “must be accompanied by a sufficiently detailed characterization of the types of activities, effluent characteristics (including analytical data for all priority pollutants), treatment, and outfalls that the request for authorization covers.”³ While Holtec has shared some limited sampling results (pH, conductivity, total organic carbon, total suspended solids, and chlorides), EPA advised Holtec that the information it has shared to date is not sufficient for EPA to make any regulatory decisions. EPA will not authorize any such discharge without a detailed pollutant characterization and further analysis.

To date, we have not received any request(s) from Holtec to obtain authorization to modify its permit. If Holtec submits a request to modify its permit, EPA will evaluate the request in a transparent process. EPA will make any draft permit modification available for public review and comment, will consider additional public forums, such as informational meetings or formal public hearings to share information and get feedback and comment, and will consult with our state partners, including requesting formal state certification under Section 401 of the CWA and federal consistency review under the Coastal Zone Management Act. Furthermore, EPA will consult with our federal partners in accordance with the Endangered Species Act, Marine Mammals Protection Act, Magnuson-Stevens Act, and the National Marine Sanctuaries Act. EPA and NRC have also initiated a dialogue to consider the potential impacts of discharges from Pilgrim.

¹ Under Massachusetts state law, MassDEP issued an identical permit that contains the same prohibitions.

² Letter from K. Moraff, Director, EPA Region 1 Water Division, to K. Trice, President, Holtec Decommissioning Int’l, LLC (Feb. 17, 2022); *see also* Letter from K. Moraff to K. Trice (June 17, 2022).

³ Letter from K. Moraff to K. Trice (June 17, 2022).

I hope this letter addresses your concerns. Please feel free to contact Damien Houlihan of my staff at 617 918-1586 if you have any questions.

Sincerely,

 Digitally signed
by KENNETH
MORAFF
Date: 2022.07.26
12:17:41 -04'00'

Ken Moraff, Director
Water Division

Cc: John Lubinski, NRC
David Lew, NRC
Lealdon Langley, MassDEP
Kris Singh, Holtec