



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

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BY ELECTRONIC MAIL

June 17, 2022

Captain Peter DeCola
United States Coast Guard (retired)
Superintendent,
Stellwagen Bank National Marine Sanctuary
175 Edward Foster Road
Scituate, MA 02066
Pete.Decola@noaa.gov

Dear Captain DeCola:

Thank you for your March 14, 2022, letter in which you express your concern about decommissioning activities being conducted by Holtec Decommissioning International (Holtec) at the Pilgrim Nuclear Power Station (Pilgrim) in Plymouth, Massachusetts.

First, I would like to assure you that the US Environmental Protection Agency (EPA) shares your concerns over transparency in the decommissioning process at Pilgrim and the potential for impacts to marine ecosystems, including in Cape Cod Bay. Upon learning of Holtec's plan to discharge spent fuel pool water, 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 in November 2021 to obtain more information and to clarify the scope of authorization provided to Holtec to discharge pollutants under its National Pollutant Discharge Elimination System (NPDES) Permit (NPDES Permit No. MA00003557) issued by EPA Region 1 in January 2020 pursuant to the Clean Water Act (CWA). It was explained to Holtec at that meeting that the NPDES Permit prohibits the discharge of CWA-regulated pollutants in spent fuel pool water and in other waste streams associated with decommissioning.¹ In light of subsequent media reports about the potential for discharge and, later, Holtec's January 27, 2022, letter and Information Sheet to stakeholders outlining Holtec's position on the discharge of decommissioning water, EPA sent Holtec the February 17, 2022 letter you cite in your letter to me, clarifying what discharges are and are not authorized under their NPDES Permit. I understand that you have discussed the contents of the February 17, 2022 letter with my staff. In the letter, EPA reiterated to Holtec that, "contrary to the implication in the [January 27, 2022] letter that discharges of spent fuel pool water are allowed by EPA, any such discharge is

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

explicitly prohibited by the company's Clean Water Act (CWA) discharge permit, unless there are no CWA-regulated pollutants present.”

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 associated with decommissioning) to Cape Cod Bay. Specifically, EPA noted that “As EPA explained on the permit record, and as reflected in the permit itself, should Holtec wish to discharge any such water, it should first provide EPA with a full characterization of pollutants present in such water to determine whether Clean Water Act requirements apply and if they do, either apply for, and obtain, a modification of its existing individual NPDES Permit pursuant to 40 CFR part 122 or apply for, and obtain, authorization under an applicable NPDES general permit. In addition, since such discharges are likely to be considered new and/or increased discharges from the facility, they would be subject to an antidegradation review by the Massachusetts Department of Environmental Protection. See 40 CFR § 131.12; 314 CMR 4.04.” EPA will not authorize any such discharge without a detailed pollutant characterization and further analysis.

My staff reached out to Holtec representatives and learned that Holtec has done some limited characterization of the untreated spent fuel pool water and other water associated with the reactor. During a virtual meeting in mid-May, Holtec shared some information with EPA regarding pH, conductivity, chlorides, total suspended solids, and total organic carbon but has not shared any other sampling information with us to date. You have my commitment that EPA will promptly share any additional information it receives regarding waste stream characterization, permit modification requests, and authorization to discharge under any general permit with the public (through the NDCAP) and with all relevant state (MassDEP, MassCZM, and MassDPH) and federal agencies (US Fish and Wildlife, NOAA Fisheries), including Stellwagen Bank National Marine Sanctuary. EPA will also make such information available to the public by posting the information on EPA's web site.

On May 24, 2022, EPA received a response from Holtec, asserting that, if Holtec discharged treated spent fuel pool water, that discharge would comply with Pilgrim's current NPDES Permit. EPA does not agree with Holtec's position, and, on June 9, 2022, we explained to Holtec by letter that *any* discharge of spent fuel pool water—treated or not—containing pollutants regulated under the Clean Water Act will require an analysis by EPA to determine whether a modification to the facility's current NPDES Permit is appropriate. To date, we have not received any request(s) from Holtec to modify its existing permit or to obtain authorization under any applicable NPDES general permit. If Holtec submits any request for authorization to discharge pollutants in any currently prohibited waste streams, I assure you that EPA will engage with the appropriate state and federal agencies. Any regulatory action taken by EPA to evaluate a request to modify the existing NPDES permit or seek authorization through a general permit will be similarly transparent. 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, will consult with our state partners during any modification process, including requesting formal state certification under section 401 of the Clean Water Act and federal consistency review under the Coastal Zone Management Act, and 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.

Finally, as you know, the term “pollutant” in the Clean Water Act 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. As the discharge of spent fuel pool and other decommissioning-related wastewater may contain both CWA-regulated pollutants and radioactive materials regulated by the NRC it may be beneficial for our three agencies to engage in joint dialogue to consider the potential impacts of such discharges from Pilgrim. I have discussed the matter with Director John Lubinski and Regional Administrator David Lew at the NRC and both agencies would be happy to engage in joint dialogue with your office to further discuss your concerns.

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 and so that we may make arrangements for a meeting.

Sincerely,

A handwritten signature in blue ink that reads "David W. Cash". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

David W. Cash
Regional Administrator

Cc: John Lubinski, NRC (john.lubinski@nrc.gov)
David Lew, NRC (david.lew@nrc.gov)