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September 22, 2022

By email and certified mail

Director Martha Williams
U.S Fish and Wildlife Service
1849 C Street, NW
Washington, DC 20240
United States
fws_director@fws.gov

Richard W. Spinrad, Ph.D.
Under Secretary of Commerce
for Oceans and Atmosphere
& NOAA Administrator
Richard.Spinrad@noaa.gov

Director James Landon
NOAA Endangered Species Act
Office of Law Enforcement
1315 East West Highway
Suite 3301
Silver Spring MD 20910
james.landon@noaa.gov

Chairman Christopher T. Hanson
U.S. Nuclear Regulatory Commission
Mail Stop O-16 B33
Washington, DC 20555-0001
NRCExecSec@nrc.gov

Hello,

This letter serves as a sixty-day notice of intent to sue The Secretary of U.S. Fish and Wildlife and NOAA Fisheries as a U.S. citizen of Plymouth County, Massachusetts representing the endangered species, The North Atlantic Right Whale (*Eubalaena glacialis*) which will be adversely affected by Holtec International potential actions. Under the Citizens Lawsuit provision of The Endangered Species Act. The Endangered Species Act authorizes citizens to enforce compliance with any provision of the Act. [16 U.S.C. § 1540\(g\)](#). This includes the prohibitions in [16 U.S.C. § 1538](#). See [50 C.F.R. § 17.21](#) and [50 C.F.R. § 17.61](#).

Citizens adversely affected by the violation must give 60-days notice of the alleged violation to the alleged violator relevant federal officials. This notice and delay period are intended to allow the violator an opportunity to correct their violation and to give the federal officials an opportunity to enforce compliance, thus making citizen enforcement unnecessary.

A sixty-day notice is required to inform relevant Agencies of intent to sue. Section 7(a)(2) of the ESA requires that Federal agencies consult with the National Marine Fisheries Service (NMFS) and/or the U.S. Fish and Wildlife Service, as applicable, to ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of the critical habitat of such species.

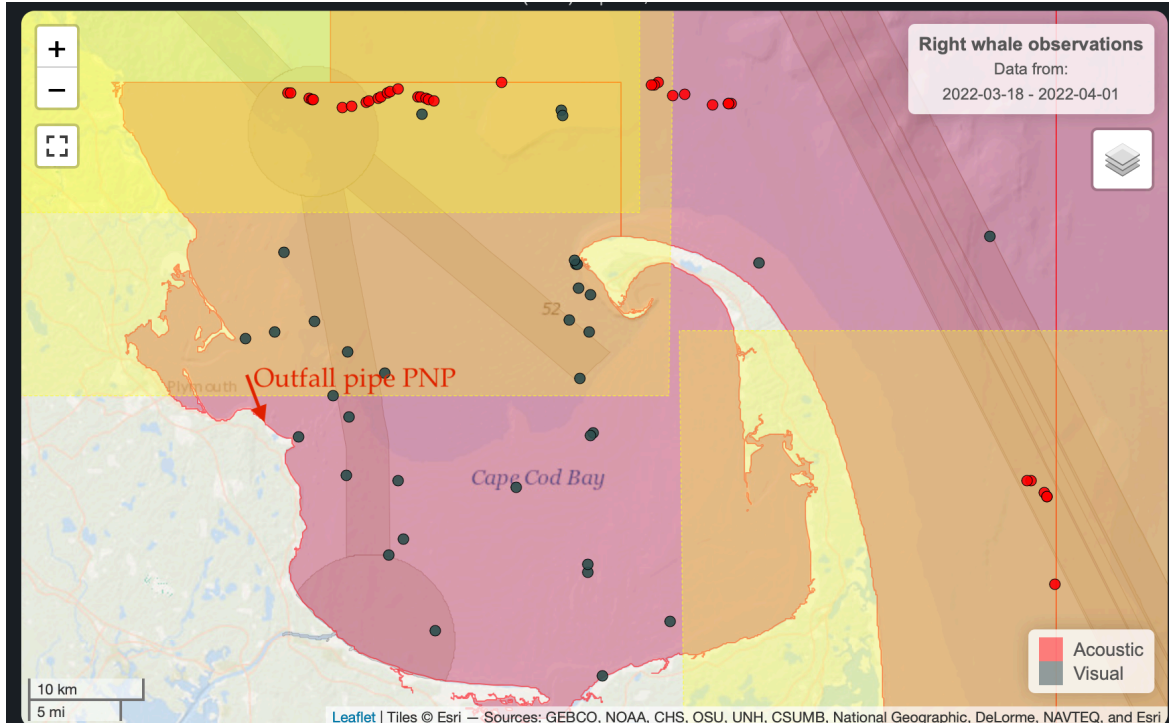
Holtec International has notified that they plan to pick one of four options to dispose of over a million gallons of radioactive water are currently stored on the Pilgrim Nuclear Power in Plymouth, Massachusetts site awaiting final disposal. Holtec claims it will announce a final decision in September/October 2022 and

one option is to dispose of radioactive water into local waters as early as January 2023. This sixty-day notice is to ensure no disposal happens into local water without USFW and NOAA review of ramifications of this action on a critically endangered species and their habitat for survival and appeal of any decision.

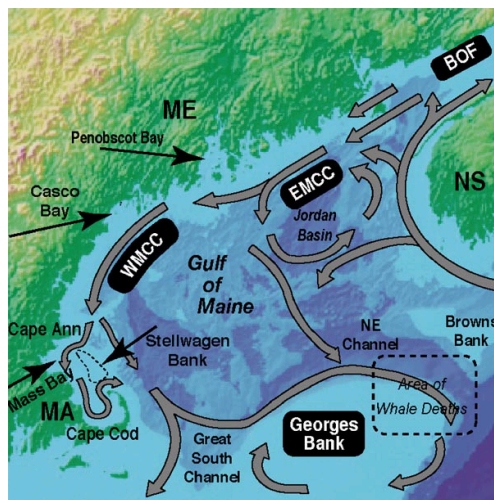
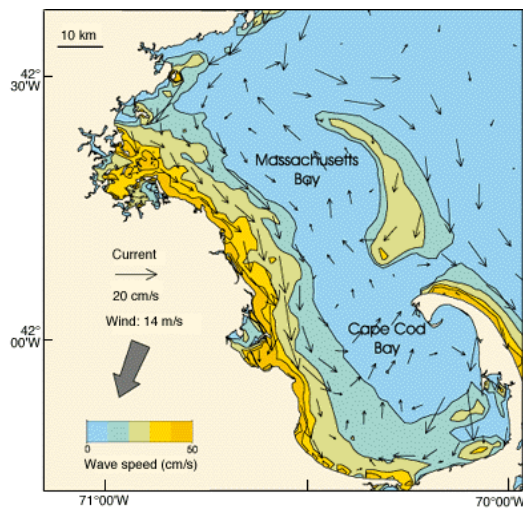
The North Atlantic Right Whale's (*Eubalaena glacialis*) conservation status is critically endangered with less than 350 of the mammals left. They travel to the Caribbean in the winter to breed and to Cape Cod Bay in the spring to feed. The North Atlantic Right Whale is a baleen whale, which is to say a filter feeder.

They travel to Cape Cod Bay because of the enclosed circulation system rich the food they eat; copepods. Copepods do not travel far and are in the Bay all seasons. Copepods have been proven to uptake radioactive particles. See: <https://www.int-res.com/articles/meps/68/m068p071.pdf>

The ESA also prohibits the destruction of critical habitat for an endangered species. The following map shows where North Atlantic Right Whales were feeding over last spring and the location of outfall pipe from Pilgrim Nuclear Power Plant:

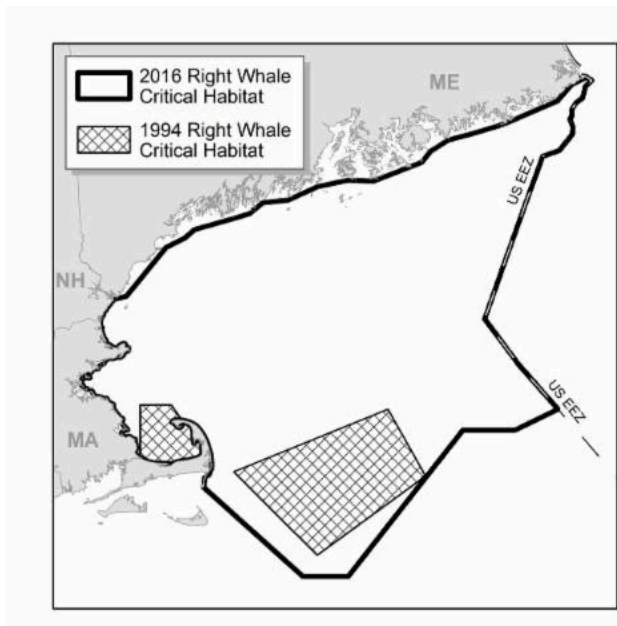


Pilgrim Nuclear Power Plant fronts Plymouth, Kingston, and Duxbury Harbors, Cape Cod Bay, Stellwagen Bank National Marine Sanctuary, The Gulf of Maine, then the Gulf Stream, a much smaller dilution profile than the larger Gulf Stream, and one historically rich with nutrients that feed fish, whales, and birds that our area is known for:



The circulation in our local embayment's are much more enclosed and very nutrient rich, which has led to eons of migrations of Federally Listed Critically Endangered Right Whales, and other whales to feed in Cape Cod Bay, right off Pilgrim NPP, after wintering in the Caribbean. The nutrients they feed on, copepods, uptake radioactive elements, which are then ingested by the whales and stay in their fat. The copepods are in our local bay year-round and are not seasonal, so any radioactive discharge will be ingested by the copepods, and then ingested by the 300 plus Critically Endangered North Atlantic Right Whale (*Eubalaena glacialis*) that visit our Bay. This is a much smaller dilution system than the Gulf Stream.

To enforce The Endangered Species Act there must be a Critical Habitat Designation. The Northern Right Whale which has Endangered Classification also has Critical Habitat Designation as you can see from the following chart:



So in conclusion, this notice serves to inform all parties that the date of November 21, 2022 shall be sixty days, whereupon if Holtec International has

signaled that ocean discharge is their choice of disposal, it shall set off a Citizen ESA lawsuit for NFWS and NOAA to do a serious study of the potential effects of radioactive waste on the habitat and survival of the Critically Endangered North Atlantic Right Whale (*Eubalaena glacialis*) before any discharge is allowed, and further allows appeal of any decision rendered.

NFWS and NOAA may prohibit the discharge under the ESA.

Sincerely,

Sheila Lynch-Benttinen

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