

**ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)	
)	
Holtec Decommissioning International, LLC)	NPDES Appeal No. 20-03
)	
NPDES Permit No. MA003557)	
)	

ORDER GRANTING JOINT MOTION FOR SECOND EXTENSION OF STAY

On March 6, 2020, three parties—Holtec Decommissioning International, LLC, Holtec Pilgrim, LLC (together, “Holtec”), and Entergy Nuclear Operations, Inc. (“Entergy”)—filed a petition with the Environmental Appeals Board (“Board”) seeking review of a permit renewal (“Permit”) issued jointly by U.S. EPA Region 1 (“Region”) and Massachusetts Department of Environmental Protection (“MassDEP”) pursuant to the federal Clean Water Act’s National Pollutant Discharge Elimination System and the Massachusetts Clean Waters Act.¹ The Permit was issued to Holtec Decommissioning International, LLC, and authorizes the continued intake of surface water and certain continued discharges from the Pilgrim Nuclear Power Station (“Facility”) into Cape Cod Bay. The Facility has ceased generating electricity and, as of June 1, 2019, has entered its shutdown phase. *See* Region 1, U.S. EPA, *Pilgrim Nuclear Power Station, NPDES Permit No. MA0003557*, at 28 (issued Jan. 30, 2020).

Shortly after the petition was filed, the parties submitted a joint motion to stay the proceedings for a period of 120 days, representing that they intended to enter into settlement

¹ The Board subsequently granted Entergy’s request for voluntary dismissal from this proceeding without prejudice. *See* Order Granting Motion for Partial Withdrawal of Petition, Motion for Withdrawal of Entergy as Petitioner, and Joint Motion for Extension of Stay 4 (July 22, 2020).

discussions to try to resolve some or all of the issues presented. Joint Motion for Stay of the Proceedings 1-2 (Mar. 26, 2020). The Board granted the motion, stayed the matter until July 24, 2020, and required the parties to submit periodic status reports. Order Granting Joint Motion to Stay Proceedings 2 (Mar. 31, 2020). On July 17, 2020, the Region and Holtec submitted a joint motion seeking to extend the stay of proceedings for an additional ninety days. Joint Motion to Stay the Proceedings 2 (July 17, 2020). For good cause shown, the Board granted the motion and issued an order that, among other things, stayed the matter until October 22, 2020. Order Granting Motion for Partial Withdrawal of Petition, Motion for Withdrawal of Entergy as Petitioner, and Joint Motion for Extension of Stay 4 (July 22, 2020).

The Region and Holtec have filed a fourth status report and joint motion seeking a further extension of the stay for thirty days. Fourth Joint Status Report and Motion to Extend Stay of Proceedings (Oct. 15, 2020). The Region and Holtec represent that they “have continued to pursue negotiations to settle the appeal, including the further exchange of proposed revisions to the draft documents necessary for settlement and several follow-up telephone calls between counsel to discuss the outstanding issues,” that they “have also met via videoconference to review technical information,” and that “they are very close to resolving the remaining issues and are optimistic that a negotiated resolution is possible.” *Id.* at 2. They further represent that a thirty-day extension of the stay would allow time “to reach agreement on a few important details and to allow time for the appropriate representatives to execute the documents” and “to provide time for appropriate coordination” with MassDEP. *Id.* at 2-3.

For the reasons stated in the pending motion and for good cause shown, the Board **GRANTS** the motion and further stays this matter until **Monday, November 23, 2020**. To the extent the Region and Holtec seek a further stay beyond November 23, 2020, they must file a

motion with the Board no later than Monday, November 16, 2020, in which they provide the basis for a further stay and the length of the further stay being sought. The parties may, at any time, file a motion seeking dismissal of the petition.

So ordered.

ENVIRONMENTAL APPEALS BOARD



Date: October 20, 2020

By: _____

Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER GRANTING JOINT MOTION FOR SECOND EXTENSION OF STAY in the matter of *Holtec Decommissioning International, LLC*, NPDES Appeal No. 20-03, were sent to the following persons by email:

Attorneys for Holtec Decommissioning International, LLC and Holtec Pilgrim, LLC

Jed Nosal
Gregory S. Sampson
BROWN RUDNICK LLP
One Financial Center
Boston, MA 02111
Telephone: 617-856-8272
JNosal@brownrudnick.com
GSampson@brownrudnick.com

Attorney for Region 1, U.S. Environmental Protection Agency

Michael Curley
Region 1
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100
Mailcode 04-6
Boston, MA 02109-3912
Telephone: 617-918-1623
curley.michael@epa.gov

Dated: October 20, 2020



Eurika Durr
Clerk of the Board