

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

In re: Pilgrim Nuclear Power Station)	
)	
Name of Permittee: Holtec Decommissioning International, LLC)	Appeal No. NPDES 20-03
)	
NPDES Permit No. MA0003557)	
)	

MOTION FOR PARTIAL WITHDRAWAL OF PETITION FOR REVIEW

Petitioners Holtec Decommissioning International, LLC (“HDI”), Holtec Pilgrim, LLC (“Holtec Pilgrim”, and together with HDI, “Holtec”)¹, respectfully submit to the Environmental Appeals Board (“Board”) this Motion for Partial Withdrawal of Petition for Review (“Motion”) in the above-referenced appeal. Specifically, Holtec seeks to withdraw only the challenge denoted as issue seven (7) in their March 6, 2020 EAB Petition for Review of the SW / NPDES Permit and any other challenges to the state only conditions in the SW / NPDES Permit

NPDES Permit No. MA0003557 (the “Permit”) was issued, on a renewed basis, to HDI on January 30, 2020, jointly by the U.S. Environmental Protection Agency Region I (the “Region”) and the Massachusetts Department of Environmental Protection (“MassDEP”), and authorizes the intake of surface water and certain discharges from the Pilgrim Nuclear Power Station (the “Station”) into Cape Cod Bay. Notice of the Permit’s reissuance was sent to Holtec and ENOI (together with Holtec, the “Petitioners”) by U.S. Mail (certified, return receipt

¹ The Region (as defined herein) and Entergy Nuclear Operations, Inc. (“ENOI”) have reached agreement on a basis for ENOI’s voluntary withdrawal from this proceeding. By subsequent motion, ENOI intends to withdraw from this appeal and therefore takes no position on Holtec’s Motion.

requested), postmarked on February 3, 2020, and was received by the several Petitioners on February 5, 2020. On March 6, 2020, the Petitioners filed a joint Petition (the “Petition”) for Review with the Board, contesting various Permit conditions (the “Appeal” or these “Proceedings”). On March 26, 2020, Petitioners and the Region (collectively, the “Parties”) jointly moved to stay these proceedings (the “Joint Motion to Stay”) in order to allow for settlement negotiations. On March 31, 2020, the Board granted the Joint Motion to Stay and ordered that these proceedings be stayed through July 24, 2020 and requiring the Parties to submit status reports every 45 days. On May 15, 2020 and June 29, 2020, the Parties timely filed the First and Second Joint Status Reports, respectively.

On June 16, 2020, the Commonwealth of Massachusetts and Holtec executed a Settlement Agreement that resolves, among other things, issues related to the decommissioning of the Station. As part of that Settlement Agreement, Holtec agreed to conditionally withdraw or stipulate to the dismissal of Holtec’s challenge with respect to the state-only conditions in the New SWD / NPDES Permit. In exchange, MassDEP agreed that the reporting obligations in the Settlement Agreement shall supersede and replace state conditions 4 and 5 in Part I.H. of the New SWD / NPDES Permit and that, in accordance with the terms of the Settlement Agreement, MassDEP will remove those conditions from the state conditions of the New SWD / NPDES Permit before or at the conclusion of the EAB Proceedings. This Motion is intended to effectuate those terms of the Settlement Agreement.

Holtec, with MassDEP, is filing a Joint Stipulation for Dismissal in the corresponding appeal before MassDEP’s Office of Appeals and Dispute Resolution with respect to these same state conditions in the NPDES Permit.

For the avoidance of doubt, Holtec does not request withdrawal of any other portion of the Petition at this time.

The Region concurs in the request to dismiss Holtec's appeal of the state conditions.

For the foregoing reasons, Holtec respectfully requests the withdrawal, and the Board's dismissal, of that portion of the Petition in which Holtec requests review of "[a]ll conditions suggesting that MassDEP possesses authority over nuclear safety and the management of radioisotopes by federal regulators, e.g., New Permit I.H.4 and New Permit I.H.5."

Dated: June 30, 2020

Respectfully submitted,

/s/ Jed Nosal

Jed Nosal
Gregory S. Sampson
Attorneys for Petitioners Holtec
Pilgrim, LLC and Holtec
Decommissioning International,
LLC

Jed Nosal
Gregory S. Sampson
BROWN RUDNICK LLP
One Financial Center
Boston, MA 02111
Telephone: (617) 856-8272
Facsimile: (617) 289-0708
JNosal@brownrudnick.com
GSampson@brownrudnick.com

CERTIFICATE OF SERVICE

I hereby certify that, upon agreement of the Parties, copies of the foregoing Motion for Partial Withdrawal of Petition for Review in the matter of Pilgrim Nuclear Power Station, NPDES Permit No. MA0003557, were served electronically on the following persons, this 30th day of June, 2020:

Michael Curley
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

Elise N. Zoli
JONES DAY
100 High Street, 21st Floor
Boston, MA 02110-1781
Telephone: (617) 960-3939
ezoli@jonesday.com

/s/ Jed Nosal

Jed Nosal
Attorney for Petitioners Holtec
Pilgrim, LLC and Holtec
Decommissioning International,
LLC

Jed Nosal
BROWN RUDNICK LLP
One Financial Center
Boston, MA 02111
(617) 856-8272
JNosal@brownrudnick.com