

Doris Mendiola - Massachusetts Attorney General Comments on Draft EIS

From: "Diane Curran" <dcurran@harmoncurran.com>
To: <PilgrimEIS@nrc.gov>
Date: 02/28/2007 10:46 AM
Subject: Massachusetts Attorney General Comments on Draft EIS
CC: <matthew.brock@ago.state.ma.us>, "Diane Curran" <dcurran@harmoncurran.com>

12/14/06
 71FR 75280

9

Dear Madam/Sir:

Attached please find the Massachusetts Attorney General's comments on the Draft Supplemental GEIS for the Pilgrim nuclear power plant license renewal application.

Please acknowledge receipt of this message.

Thank you very much.

Sincerely,

Diane Curran

RECEIVED

2007 FEB 28 PM 5:33

RULES AND DIRECTIVES
 BRANCH
 10:30

SOUSI Review Complete
 Template = ADM-013

E-RIDS = ADM-03
 Add = A. Williamson
 (ARW1)

Mail Envelope Properties (45E5A3C2.A97 : 7 : 51863)**Subject:** Massachusetts Attorney General Comments on Draft EIS**Creation Date** 02/28/2007 10:46:17 AM**From:** "Diane Curran" <dcurran@harmoncurran.com>**Created By:** dcurran@harmoncurran.com**Recipients**

nrc.gov

TWGWPO02.HQGWDO01

PilgrimEIS

ago.state.ma.us

matthew.brock CC

Post Office

TWGWPO02.HQGWDO01

Route

nrc.gov

ago.state.ma.us

Files	Size	Date & Time
MESSAGE	297	02/28/2007 10:46:17 AM
TEXT.htm	3022	
1266 DC Mass AG comments on Draft EIS 2-28-07.pdf		17452
Mime.822	29589	

Options**Expiration Date:** None**Priority:** Standard**ReplyRequested:** No**Return Notification:** None**Concealed Subject:** No**Security:** Standard

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

1726 M Street, NW, Suite 600 Washington, DC 20036

(202) 328-3500 (202) 328-6918 fax

February 28, 2007

By first-class mail and e-mail to:

Michael Lesar
Chief, Rules and Directives Branch
Division of Administrative Services
Office of Administration, Room T-6D59
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2746
PilgrimEIS@nrc.gov

SUBJECT: *Comments on Draft Supplement 29 to Generic EIS for License
Renewal of Nuclear Plants, Pilgrim Nuclear Power Plant*

Dear Mr. Lesar:

On behalf of Massachusetts Attorney General Martha Coakley, we are writing to submit comments on Draft Supplement 29 to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants (December 2006) ("Draft Supplemental GEIS"), which purports to evaluate the environmental impacts of renewing the operating license for the Pilgrim nuclear power plant. The Draft Supplemental GEIS is inadequate to satisfy the requirements of the National Environmental Policy Act ("NEPA") or NRC regulations for the implementation NEPA, because it fails to address new and significant information regarding the potentially severe adverse environmental impacts of continued high-density pool storage of spent fuel at the Pilgrim nuclear power plant.

We hereby renew the Attorney General's June 15, 2006, comments on the scope of the Draft Supplemental GEIS, including our previous request that you consider the technical information contained in the Hearing Request which was attached to our Scoping comments.¹ Our Scoping Comments were summarily dismissed in the NRC Staff's September 26, 2006, scoping decision and ignored in the Draft Supplemental GEIS.²

¹ Letter from Diane Curran and Matthew Brock to Chief, NRC Rules and Directives Branch (June 15, 2006) ("Scoping Comments"), enclosing Massachusetts Attorney General's Request for a Hearing and Petition to Intervene With Respect to Entergy Nuclear Operations Inc.'s Application for Renewal of the Pilgrim Nuclear Plant Operating License, etc. (May 26, 2006) ("Hearing Request"). The Attorney General is

As stated in our Scoping Comments, the Supplemental GEIS for the Pilgrim nuclear power plant should address the environmental impacts of a severe accident in the Pilgrim fuel pool, including accidents caused by equipment failures, natural disasters, and intentional malicious acts. The Supplemental GEIS should also consider a reasonable array of alternatives for avoiding or mitigating the impacts of a severe pool fire, including combined low-density pool storage and dry storage of spent fuel.³

In addition, the Draft Supplemental GEIS should incorporate the Commission's decision to consider the issues raised by the Attorney General's Scoping Comments and Hearing Request in a generic rulemaking proceeding.⁴ The Commission initiated the rulemaking proceeding in November of 2006 by publishing the Attorney General's August 29, 2006 rulemaking petition in the Federal Register for public comment.⁵ It is therefore premature for the Draft Supplement GEIS to reach any conclusions regarding the environmental impacts of high-density pool storage of spent fuel at the Pilgrim nuclear power plant.

Finally, the Staff should confirm that under NEPA, the Staff is precluded from issuing a permit for renewed operation of the Pilgrim nuclear power plant unless and until the results of the rulemaking proceeding have been taken into account in the Pilgrim license renewal case.

not re-submitting the Scoping Comments or the Hearing Request, because the NRC already has copies.

² Letter from Rani Franovich, Branch Chief, Environmental Branch B, to Michael R. Kansler, President of Entergy Nuclear Operations, Inc. ("Entergy"), attachment at 4-45; Draft Supplemental GEIS, Section 4.7.

³ In addition, we wish to inform you that on January 16, 2007, the U.S. Supreme Court denied a petition for review of a decision by the U.S. Court of Appeals for the Ninth Circuit that was cited in our Scoping Comments, *San Luis Obispo Mothers for Peace v. Nuclear Regulatory Commission*, 449 F.3d 1016 (9th Cir. 2007). The decision is reported at 2007 U.S. LEXIS 1028.

⁴ *Entergy Nuclear Vermont Yankee L.L.C. and Entergy Nuclear Operations, Inc.* (Vermont Yankee Nuclear Power Station) and *Entergy Nuclear Generation Company and Entergy Nuclear Operations, Inc.* (Pilgrim Nuclear Power Station), CLI-07-03, _ NRC _, slip op. at 8 (January 22, 2007).

⁵ See Notice of Petition for Rulemaking, Docket No. PRM-51-10, 71 Fed. Reg. 64,169 (November 1, 2006).

Michael Lesar
Chief, Rules and Directives Branch
February 28, 2007
Page 3

Sincerely,

/s/
Diane Curran

/s/
Matthew Brock, Assistant Attorney General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108