



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 30, 2022

Sheila Lynch-Benttinen
344 West Street
Duxbury, MA 02332

Dear Ms. Lynch-Benttinen:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated April 4, 2022 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML22094A172). In that letter, you raised concerns about a potential violation of the Endangered Species Act of 1973, as amended (ESA). Your letter states that the potential release of irradiated water into Cape Cod Bay during the decommissioning of Pilgrim Nuclear Power Station (Pilgrim) would harm federally endangered North Atlantic right whales (*Eubalaena glacialis*) that transit the Cape Cod area each spring and that such releases would also affect this species' critical habitat.

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. During its review of an application for the renewal of the Pilgrim operating license, the NRC staff consulted with the NMFS pursuant to ESA Section 7(a)(2) to address the potential impacts of the continued operation of Pilgrim for an additional 20 years (i.e., until June 8, 2032) on federally listed species and designated critical habitats. As a result of that consultation, the NMFS concluded in 2012 that the continued operation of Pilgrim under the terms of a renewed operating license is not likely to adversely affect any listed species under NMFS jurisdiction, including the North Atlantic right whale (ADAMS Accession No. ML12145A072). The NMFS also determined that continued operation would have no effect on North Atlantic right whale critical habitat. In 2013, Entergy Nuclear Operations, Inc. (Entergy) submitted a regulatory commitment to supplement Pilgrim's environmental monitoring to include reporting of any confirmed sightings of listed whales in the vicinity of the plant (ADAMS Accession No. ML14007A141). Such reporting would combine an opportunistic whale sighting by qualified individuals at the site with assistance from an outside organization with expertise in the identification of whale species. As part of this commitment, Entergy developed whale sighting protocol to be included in its site procedures. Since that time, Entergy has reported the sighting of numerous North Atlantic right whales off the coast from Pilgrim. The NRC staff discusses these sightings with the NMFS when they occur; none have necessitated the NRC to reinstate ESA Section 7 consultation.

Specifically with respect to the decommissioning period at Pilgrim, Holtec Decommissioning International, LLC (HDI) assessed the potential impacts of its planned decommissioning activities on federally listed species in its post-shutdown decommissioning activities report (PSDAR) submitted to the NRC (ADAMS Accession Nos. ML18320A034 and ML19015A020). HDI did not identify any planned decommissioning activities that would adversely affect listed

whales or their designated critical habitat. After reviewing this information, the NRC staff determined that the reinitiation of ESA Section 7 consultation was not required. As HDI's decommissioning plans mature, it will update the PSDAR in accordance with applicable NRC regulations and initiate any other necessary licensing actions if federally listed species or critical habitat designations within the vicinity of Pilgrim are revised or if potential effects to such species and/or habitats are identified. At such time, the NRC staff would determine whether the updated information would necessitate the NRC to reinitiate ESA Section 7 consultation. If reinitiated consultation is required, then the staff would engage the NMFS again to determine whether the planned decommissioning activities would 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, including the North Atlantic right whale.

I appreciate your interest in the decommissioning of Pilgrim and your service to the surrounding community. If you have any questions or need additional information, please contact me or have your staff contact Mr. Bruce Watson, Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards, at (301) 415-6221.

Sincerely,



Signed by Marshall, Jane
on 04/30/22

Jane E. Marshall, Director
Division of Decommissioning, Uranium Recovery
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

cc: James Landon, Director
Office of Law Enforcement
NOAA Fisheries
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LTR-22-0093 Response to Sheila Lynch-Benttinen, regarding Irradiated Water Release from Pilgrim DATE April 30, 2022

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ADAMS Accession No.: ML22094A173; Ltr ML22104A054

* via email

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