

**NUCLEAR DECOMMISSIONING CITIZENS ADVISORY PANEL (“NDCAP”)
Monday, November 28, 2022
Hybrid Meeting (in-person and virtual)
Meeting Minutes**

The meeting was called to order at about 6:30 pm by Mr. John Mahoney.

NDCAP MEMBERS PRESENT

- Pine duBois, Speaker of the House Appointee (Vice Chair) (virtual)
- James Lampert, House Speaker Appointee (in person)
- Mary Lampert, Senate President Appointee (in person)
- Mary Jo Gatslick, Minority Leader of the Senate Appointee (in person)
- David C. Nichols, Governor Baker Appointee (in person)
- Andrew Gottlieb, Governor Baker Appointee (in person)
- Seth Pickering,¹ Department of Environmental Protection (in person)
- Jack Priest, Department of Public Health, Radiation Control Program (in person)
- Henrietta Cosentino, Plymouth Select Board Appointee (in person)
- John Mahoney, Plymouth Select Board Designee Delegate (in person)
- Mary Waldron, Old Colony Planning Council (virtual)
- Kelly O’Brien, UWA Representative (in person)
- David Noyes,² Holtec Decommissioning International (in person)
- John Moylan, Holtec Site Vice President (virtual)
- William Crocker³, Executive Office of Housing and Economic Development (virtual)

NDCAP MEMBERS NOT PRESENT

- Amy Naples, Senate President Appointee
- John Viveiros, Massachusetts Emergency Management Agency
- Robert Hayden, Massachusetts Department of Public Utilities

GUESTS IN ATTENDANCE

- Jim Cantwell, representing U.S. Senator Edward Markey’s office
- Caleb White, representing U.S. Senator Elizabeth Warren’s office
- Michael Jackman, representing Congressmen Bill Keating’s office
- State Senator Susan Moran
- Gerard Martin, Massachusetts Department of Environmental Protection (MassDEP)
- John Drobinski ERM
- Neil Sheehan, NRC
- Bruce Watson, NRC

PUBLIC ATTENDEES On-Line- 84
Many also attending in person

¹ Designee of Secretary Theoharides (Executive Office of Energy and Environmental Affairs)

² Designee of Pat O’Brien (Holtec)

³ Designee of Executive Office of Housing and Economic Development-replaced Susan Whitaker

REVIEW OF MINUTES

Mr. Mahoney asked whether prior minutes could be approved. Ms. Lampert indicated that she sent the Southeastern Massachusetts Health Study and other materials to the entire panel.

Ms. Lampert and Mr. Noyes agreed that the minutes from July 2022 should indicate that Ms. Lampert disagreed with Mr. Noyes, not that she corrected Mr. Noyes.

A motion was made to approve the July 2022 minutes, which was seconded. The motion was approved with 2 abstentions.

Mr. Mahoney asked whether the September 2022 minutes could be approved. The following change was requested by Ms. Cosentino:

- On p. 4, the word “irreverent” in the prior minutes should be “irrelevant” in a statement by Ms. Cosentino.

Ms. duBois also indicated the following changes that were provided:

- Guests in attendance should include Bruce Watson, Neil Sheehan, Matthew Daley, and John Drobinski.
- There were 61 public attendees and 156 virtually.
- On p. 6, reference to “ESA” should say “MSA” (Massachusetts Settlement Agreement).
- Other additions were suggested by Mr. Noyes to words and details.

Ms. Cosentino also indicated the following:

- In last section called “Public comments and question,” the reference to “Barry” should be “Doctor Barry Potvin.” Dr. Potvin is the chair of the Plymouth Board of Health.
- Ms. Lampert also suggested adding details that were discussed by Dr. Potvin at the meeting.

Ms. duBois indicated that Benjamin Cronin should be noted as a separate person.

A motion was made to approve the September 2022 minutes and seconded. The motion was approved with 2 abstentions and 1 objection.

PUBLIC COMMENTS

Mr. Mahoney began the first round of public comments.

Michael Hugo, Director of Policy and Governmental Affairs for Massachusetts Association of Health Boards, gave the first public comment. He explained to the panel that under Massachusetts General Laws, boards of health can intercede in actions causing public health nuisances. Under the statute, a public health nuisance is anything of danger to the public health of the people living in the town of Plymouth. Further, the statute grants powers to the board of health to stop all nuisances and to remove the causes of nuisance. Mr. Hugo advised that a moratorium by the board of health be created in accordance with the statute. Mr. Hugo then mentioned an additional statute regarding businesses committing a trespass on everybody located near noxious activities. Mr. Hugo concluded by mentioning that the Massachusetts Association of Health Boards would be in contact with the Plymouth Town Council to create plans intended to protect the town and bay.

Art Desloges, member of the Executive Committee Sierra Club, gave the following comment. The Sierra Club's mission is to protect the Earth's resources and stand up for environmental justice. He indicated that the key issue is who will determine the appropriateness of the proposed discharge by Holtec into Cape Cod Bay, and what input this panel will have. He asked that unbiased testimony be taken as to whether a new permit will be required.

Christopher Nord gave the next comment. He spoke on behalf of the Citizens Awareness Network and explained how the network came into existence because of the discharge in the Deerfield Valley. According to a study conducted in Deerfield Valley, the effects of the discharge affected breast cancer, lymphoma, down syndrome, immune deficiency diseases, birth defects and learning disabilities. The study also focused on tritium. Mr. Nord stated that there needs to be more recent data to determine the long-term effects of exposure to radioactive discharge. Mr. Nord stated that there would be damage to the environmental and to people if Holtec decides to discharge into Cape Cod Bay.

LEGISLATIVE DELEGATION

Mr. Mahoney introduced Mr. Jim Cantwell, who read a statement on behalf of U.S. Senator Ed Markey. Mr. Cantwell reminded the public and panel that in 2019, Holtec promised the community that the decommissioning process would be transparent. Mr. Cantwell also stated that Holtec is not authorized to discharge any water from the site under existing permits. A modification to the permit is required if Holtec decides to pursue potential discharge. As of recent, Holtec has not answered whether they intend to seek a permit modification. The public deserves a clear commitment by Holtec to follow applicable rules and regulations.

Mr. Michael Jackman read a statement on behalf of U.S. Congressman Bill Keating. Mr. Jackman emphasized the need to explore all regulatory avenues when it comes to discharge and the decommissioning process. He continues to urge Holtec to reconsider its plans to discharge into Cape Cod Bay. He urged the Commonwealth to enforce the Ocean Sanctuaries Act to prevent industrial waste from being discharged into Cape Cod Bay.

Mr. Caleb White from U.S. Senator Elizabeth Warren's office indicated that Senator Warren is actively following the issue and exploring all options to respond. The Senator's office is available to answer any questions or concerns from the public.

Ms. Lampert referred to a letter from Holtec dated November 17, 2022 to federal legislators. A portion of the letter mentioned Holtec's methods of water disposal from the site which include: treated water release, evaporation, transport for final disposition, and onsite storage. In other words, Holtec is saying that discharge into the bay is not off the table despite opposition from several agencies, municipalities, and representatives. Mr. Cantwell said he could not speak on behalf of Holtec. However, Mr. Cantwell referred to a letter between EPA and Holtec from June 2022 which mentioned the 2020 permit. Mr. Cantwell indicated that the current NPDES permit does not authorize water release from the spent fuel pool, dryer separator torus, or reactor cavity.

Mr. Mahoney asked Mr. Cantwell whether the lines of communication are open between Holtec and the federal/state delegations. Mr. Cantwell agreed. All members of the delegation have been in touch with Holtec, as recently as October 27, 2022.

State Senator Susan Moran stated that she filed legislation, which would have provided for a citizens group and further study of economic and health issues. The legislation was vetoed by Governor Baker.

HOLTEC UPDATE

Mr. Noyes provided an update on decommissioning. A power point presentation was presented, which was provided to the panel.

There are no changes to the key dates for license termination plan submittal in 2024 and partial site release in 2027.

For radiological characterization of the site, there is radiological sampling of the slabs where buildings once stood. Also, Holtec is working on development of the license termination plan which will be submitted to the NRC.

For the non-radiological characterization, Holtec is contracting for the PCB removal. PCBs were discovered in one of the outlying areas. Prior to removal, a cleanup plan will need to be approved by the state. Moreover, Holtec continues to work on the future characterization of the MCP reportable conditions and the identification of non-radiological pollutants.

Regarding ongoing demolition activities, demolition has begun on the trash compaction facility. Currently, there is a short term hold due to discovery of asbestos. Holtec is working with the state to get a nontraditional work plan developed. Abatement activities will begin on December 14 with completion of abatement and removal set before the holiday and the end of the year.

With respect to the overall site, more than 70% of the outbuilding on site have been demolished. Mr. Noyes listed several structures set for demolition in the Spring of 2023.

For reactor segmentation, Holtec continues to work to package waste materials (control rod blades). 40 of the 173 blades have been crushed and ready for shipment.

For regulatory affairs, Holtec received the third quarter inspection by the NRC. Mr. Noyes mentioned a severity level four, which was associated with gaps in monitoring of airborne radioactivity in 2020 when Holtec was doing removal of the control rod drive mechanisms within the drywell. The issue was included in a corrective action program.

For waste management to date, Holtec has shipped 76,000 cubic feet of Class A Waste, 62 cubic feet of Class C Waste. Holtec continues to package the material. For Class B and C Waste, a specific cast system is being designed to be used for shipment.

Mr. Noyes presented a slide regarding the last discharge event from the site dating back to May 2015. Of the 19,000 gallons of treated water, there were 6 isotopes identified under Gamma and Beta analysis. It included Manganese 54, Iron 59, Cobalt 58, Cobalt 60, Iron 55, and Tritium. The concentrations were listed on the slide.

Mr. Noyes explained that Iron 59 and Cobalt 58 have extremely short half-lives. Future discharge of water from the site would not have any radioactivity associated with those two isotopes.

By way of comparison, a naturally occurring radioactivity sample performed on August 22, 2022 has a 1.25 billion year half-life, and its concentration was higher than the discharge in 2015 with the exception of Tritium.

Mr. Gottlieb asked Mr. Noyes what the purpose was of showing the panel and public the analysis. Mr. Noyes said he was asked by the panel to provide the radiological constituents of a treated water tank that had been historically discharged from the plant. Mr. Noyes indicated that, when compared to the federal limit under 10 CFR part 20, the discharges are in the area of two percent of the allowed values.

Mr. Mahoney asked Mr. Noyes how he knew that some of the isotopes had gone through ten half-lives. Mr. Noyes said isotope decays very predictably over time. The isotopes he mentioned decay with a known period of time. Half-life is the amount of radioactive potency of the isotope.

Ms. Lampert said that under the Ocean Sanctuaries Act there should be zero pollutants and how Holtec can eliminate all pollutants down to zero. Mr. Noyes said that under the NPDES and water discharge permit, radionuclides are exempt.

Ms. Cosentino pointed out that the water tested in 2015 was not from the spent fuel pool. Mr. Noyes described the various places the water came from, and indicated that the water was commingled including from the spent fuel pool. Ms. Cosentino asked whether it was equivalent to the water in question. Mr. Noyes indicated that he does not know.

Mr. Noyes also indicated that untreated non-radiological water on-site from three sources was compared to 126 EPA priority pollutants. Ms. Lampert asked Mr. Noyes why Holtec was focusing on priority pollutants. Mr. Noyes said that they are the set of pollutants that are most readily tested for unless there is indication in any process stream that something other than a priority pollutant may exist. Asbestos could not be tested. He indicated that only 1 or 2 priority pollutants were detected in untreated water samples.

Mr. Gottlieb asked Mr. Noyes what conclusion he drew and what implications does it have for Holtec's future steps. Mr. Noyes stated that post treatment, there will be no level of detectable priority pollutants in the water that will be dispositioned. Mr. Gottlieb then asked whether that would legally authorize Holtec to dispose at its discretion. Mr. Noyes indicated that his statement below would answer this question.

Mr. Lampert asked Mr. Noyes whether there will be zero pollutants if the water were discharged (priority pollutants or otherwise). Mr. Noyes indicated that his statement below would answer this question.

Mr. Noyes explained that Holtec is currently installing a torus water filtering system. It is designed for micron filtration which will remove particulate pollutants down to the size of human hair. Holtec is also moving forward with sampling a treated water tank for non-radiological pollutants and shared split samples of on-site water volumes. The results will be provided to the experts appointed by U.S. Senator Markey's Office. Lastly, Holtec is proceeding with a NPDES and surface water discharge permit modification because this is the path identified by the regulators. Mr. Noyes indicated that Holtec will be in a position to move forward with discharge.

Mr. Gottlieb asked whether Holtec intends to move forward anyway, if the permit modification were not granted. He asked whether Holtec disputes that non-radiological pollutants are subject to regulation. Mr. Noyes reiterated that this is the path that has been given by regulators, though there are always other pathways if the parties were to reach an “impasse” in the permit process. Holtec intends to make a good faith effort to move forward with permitting. Holtec does not have a good idea of timeline yet, and Mr. Noyes indicated that he could not commit to Holtec not discharging prior to resolution of the permit issue.

Mr. Nichols asked Mr. Noyes why Holtec was looking for the EPA priority pollutants instead of fully characterizing the water. Mr. Noyes stated that it was typical practice to characterize the waste stream based on the components that come in contact with that waste stream. Both asbestos and PCBs are included in the priority pollutant list.

Ms. Lampert asked whether Holtec would agree to give the panel, Senator Markey, Senator Warren, Representative Keating, Senator Moran, Senator Cyr, Senator O’Connor, and the Massachusetts AGO not less than 30 days advanced notice prior to discharging water into Cape Cod Bay, whether or not processed. Mr. Noyes said he could not answer that question. Ms. Lampert then asked whether Holtec could give any time period regarding notice. Mr. Noyes said he would have to get back to Ms. Lampert.

Mr. Mahoney asked Mr. Noyes whether data presented earlier in the presentation was from 2015. Mr. Noyes said it is the water that is currently in the spent fuel pool or other volumes having been treated and then sampled. It is a contemporary sample of the same volume. The data on radiological discharges presented today was from 2015. The non-radiological samples were more recent.

Mr. Mahoney asked when the samples are taken, who is going to be present and what does the process look like. Mr. Priest from DPH explained the process. The Massachusetts Department of Public Health and Department Environmental Protection are working together to take samples from three locations on the plant (spent fuel pool, dryer separator pit, torus). The samples will be taken by DPH for radiological analysis by a radiation laboratory. For DEP’s samples, it requires an external laboratory, and DEP is currently working to complete contracting for this purpose. The results will be provided to U.S. Senator Markey’s expert panel.

Mr. Lampert said it was important to look at the water pre-treatment. After treatment, the water is highly diluted prior to it going into the discharge canal. Mr. Priest stated that when water has been treated and discharged with dilution water, it is below the level of detectability.

Ms. Gatslick asked whether there was a protocol for sampling the water. Mr. Priest said that the sample taken will be representative of the water in the three mentioned locations.

INTERAGENCY WORK GROUP (IWG) UPDATE

The IWG update was given by Mr. Seth Pickering. A power point presentation was shown and provided to the NDCAP.

With regards to the water discharge permits, MassDEP, DPH, EEA, Mass AGO, and Holtec participated in a meeting held at US EPA on October 17, 2022. At the meeting, it was made clear that any proposal by Holtec to discharge water from the site or activities relating to decommissioning requires authorization under a new or modified NPDES Permit and/or MassDEP surface water discharge permit. Further, it

would require additional state and federal reviews including MassDEP Water Quality Certification, federal consistency review by Coastal Zone Management Office, and, if considered a new or expanded discharge, review under the Massachusetts Environmental Policy Act (MEPA). Holtec was advised to consult with the relevant agencies due to the complexities and length of time required for permitting.

EPA and MassDEP have not received a formal request by Holtec to discharge spent fuel cooling water (or other decommissioning water) into Cape Cod Bay. MassDEP's position continues to be that Holtec must comply with the current NPDES permit along with the surface water discharge permit. The permit currently prohibits the discharge of any pollutants from the spent nuclear fuel pool water and other decommissioning water.

MassDEP and DPH have been working with Holtec to determine a protocol for sampling water from the reactor building. Sampling will occur at 3 locations (spent fuel pool, separator dryer pit, and torus) and will be observed by the state (MassDEP/DPH). Split samples will be provided to the state for independent testing. Due to contractual limitations with its laboratory, MassDEP is currently in the process of finalizing a contract for testing the samples. MassDEP plans to analyze the samples for a wide variety of non-radiological contaminants (see MassDEP slides), which will serve as a baseline for any future testing that may be required in conjunction with permit reviews. MassDEP and DPH hope to have the sampling results ready to present at an upcoming NDCAP meeting.

Mr. Pickering introduced Mr. Gerard Martin to continue the update. The rest of the update was given along with a PowerPoint.

Mr. Martin stated that sampling would take place in three locations: the spent fuel pool, the separator dryer pit, and the torus. The sampling will be conducted by Holtec and observed by MassDEP and DPH personnel. Thereafter, split samples will be provided to the state for analysis at an independent laboratory. Holtec and the Commonwealth will not use the same laboratory to ensure genuine and independent split samples.

Mr. Martin showed a slide that showed all the pollutants to analyze. This includes the priority pollutants, all pollutants in NPDES permit, and others identified through a literature search. These include: pH, temperature, oil and grease, total residual oxidants, tolyltriazole, total dissolved solids, whole effluent toxicity, metals, cyanide, sodium nitrite, asbestos, semi-volatile organic compounds, polycyclic aromatic hydrocarbons, volatile organic compounds, PFAS, and PCBs. This list was shared with Holtec.

For the radioactive materials, there will be an analysis of tritium and principal gamma emitters consistent with NRC requirements and current environmental sampling. A radiological lab will analyze the samples, and a separate laboratory will analyze non-radiological pollutants. Mr. Martin hopes to have the results by the next NDCAP meeting in January 2023.

There was a question by Mr. Lampert whether the reactor vessel was on the list for locations to sample. Mr. Martin stated that the water in the separated dry pit was the same as the reactor vessel. Mr. Nichols asked whether any of the pollutants on the list cannot be cleaned or treated. Mr. Martin said none that he could think of. We have good treatment technologies now. There will also be sampling post treatment.

Mr. Mahoney asked how many appointed officials will be attending the date sampling. Mr. Martin said three or four including Mr. Pickering, Mr. Martin, and Mr. Priest. Mr. Mahoney asked whether any

representatives from federal legislative offices could join. Mr. Martin said it would be up to Holtec to decide since MassDEP cannot grant authorization to anyone to access the site.

Mr. Gottlieb asked whether MassDEP was looking at just the six PFAS regulated for drinking water purposes. Mr. Martin said all would be reviewed, with a focus on the six for which standards exist. Mr. Gottlieb asked whether the NPDES would permit an existing activity, or whether it would be considered a new or expanded permit. Mr. Martin indicated that this would be a modification, but anti-degradation principles could apply. Mr. Gottlieb suggested that MassDEP consider this issue so as to preclude appeals.

Ms. Lampert asked Mr. Martin to plainly explain what the anti-degradation provision is. Mr. Pickering indicated that research could be done on the question and presented by the next NDCAP meeting.

Mr. Gottlieb explained that the anti-degradation provision prevents making existing conditions worse or introducing new contaminants even if it meets the regulatory standard. It is a higher level of protection than a standard NPDES permit would provide for. Mr. Pickering agreed that a more refined answer could be provided by the next NDCAP meeting.

Regarding the environmental site assessment work plan, MassDEP, DPH, and the AGO are reviewing Holtec's responses and comments submitted to the state at the end of January 2022. The work plan must be approved by the state under the settlement agreement reached with the Commonwealth.

The radioactive waste management plan continues to be under review by MEMA, the plan was submitted in response to the AGO's non-compliance letter sent on November 22, 2021.

Under the Massachusetts Contingency Plan, the next deliverable is a Phase II comprehensive site assessment. It identifies the full extent of non-radiological oil and hazardous material at the property and includes a risk assessment. The Phase II assessment will be due in April of 2025, and governs the terms of the cleanup.

The MassDEP asbestos section is continuing to be actively engaged in overseeing the demolition activity occurring on site. On November 18, 2022, Mr. Martin and Mr. Pickering were on-site to check on demolition and remaining plant equipment status. Also, Holtec has requested to change their wastewater disposal system to a Title V system. MassDEP will evaluate the request.

During an asbestos removal project, asbestos containing material (ACM) entered an underground electrical vault that contained about 5,000 gallons of water. The water was filtered to remove the material as required by a non-traditional work plan that MassDEP required. Holtec has made a request to take the filtered water and introduce it to the wastewater treatment plant for disposal. MassDEP has requested that the water be analyzed for PFAs before deciding whether the water can be introduced into the wastewater treatment plant.

Mr. Nichols asked whether state regulations provide any authority beyond federal (NRC) regulations in relation to radionuclides. Mr. Priest indicated that there is no more authority. However, the settlement agreement describes how radionuclides must be analyzed ("resident farmer" standard), and sets the cleanup standard at the Massachusetts regulatory limit of 10 mrem.

JAMES LAMPERT PRESENTATION

Mr. Lampert gave a presentation on the applicability of various statutes, and showed a power point presentation.

He began by explaining that there are two Clean Water Acts. The first is the United States Clean Water Act which prohibits the release of any pollutant unless there is a permit in existence for such activity. The permit granted by the EPA lists the limits of what can be discharged, the manner, the type of reporting. The second Clean Water Act is the Massachusetts Clean Water Act.

Mr. Lampert explained what constitutes a pollutant under the statute. The definition of pollutant in the U.S. Clean Water Act is different from the definition in the Massachusetts Clean Water Act.

Mr. Lampert listed nine categories of water that could be discharged. It included: circulating water, non-thermal backwash water, non-contact cooling water, intake screen wash water, stormwater, and station heating system water. Mr. Lampert pointed out that the permit does not mention spent fuel pool water, torus water, and dryer separator water.

Mr. Lampert reiterated that under the current permit, Holtec cannot discharge water from the spent fuel pool, torus, and dryer separator unless a new permit is sought or there are no pollutants in the water at the time of discharge. Pure water with no pollutant can be discharged according to the EPA.

Mr. Lampert began to discuss the filtration process. His understanding is that there is no perfect purification system. He then pointed out that Holtec advised the NRC that Holtec's filtration system can achieve a 90-95% removal rate but still leaves some pollutants behind.

Massachusetts law is not limited to non-radiological pollutants. It does not exclude pollutant like tritium. Tritium cannot be filtered. The water would be diluted as it as in the past prior to discharge to comply with any NRC regulations. Mr. Lampert explained that the water would travel down a canal on site prior to entering Cape Cod Bay. The sensors were not good enough to detect any pollutants in that water.

Mr. Lampert referred to the settlement agreement between Holtec and the Commonwealth. Specifically, paragraph 10 requires that Holtec shall comply with all applicable environmental and human-health based standards and regulations of the Commonwealth. On July 25, 2022, and November 9, 2022, Holtec stated that it would comply with federal and state requirements.

Mr. Lampert stated that the Massachusetts Clean Water Act allows permitting of discharging, but no exemptions appear to exist under the Ocean Sanctuaries Act (OSA). This is for Holtec and the AGO to sort out. The EPA and other public officials have indicated that Holtec is not currently authorized to discharge water into Cape Cod Bay.

Ms. Gatslick asked Mr. Lampert, at what point is something considered a pollutant, for example Tritium. Mr. Lampert said it depends on what the acts say are pollutants. Ms. Gatslick agreed. Ms. Gatslick stated that the entire picture should be presented to the panel and public when discussing discharge.

Mr. Priest gave a hypothetical example of copper and drinking water. If the limit of copper in drinking water is ten, then the drinking water must be less than 10 parts of copper. Mr. Lampert agreed and said that is what a permit would tell you.

Mr. Priest said the concentrations were determined on a risk-based number and in the settlement agreement, it was agreed that the state and Holtec would have a dose limit less than the federal

requirements. Mr. Priest indicated that the state's preference is that the water not be discharged into the Bay.

Mr. Lampert stated that the "gating question" is, not whether the current permit prohibits discharges, but what discharges will be allowed. Mr. Priest reiterated that sampling would be analyzed pre-treatment and post-treatment when the water would be diluted.

Mr. Noyes asked whether the outfalls were different in the prior permits, with respect to radiological discharges. He asked whether, since 1972, plant operations up to and including last discharge in 2015 would have been in violation of the permit. Mr. Lampert indicated that spent fuel water discharge was not authorized by the prior permit, as radiological discharges were not covered.

Mr. Noyes asked about 301 CMR 27.05, which allows "existing municipal, commercial, or industrial facilities but not any change in or extension of associated structures or uses." Mr. Lampert indicated that the effective date of that provision is 1971. There is a question of whether or not the proposed discharge would be a modification of past practice. This is an issue that Holtec, EPA and the state will need to work out. Mr. Noyes asked whether the discharge would be prohibited by the OSA, if it were determined to be a new discharge. Mr. Lampert indicated an outstanding question is timing, since the effective date of the OSA was 1971 and the Holtec license to operate was issued in 1972.

Mr. Noyes asked whether OSA or Clean Water Act can preempt radiological discharges regulated by the Atomic Energy Act. Mr. Lampert stated that the settlement agreement requires compliance with all federal and state regulations. The NRC does not have sole authority over everything nuclear, and if there is a conflict between state/federal regulation and NRC regulations, then there is preemption. There is no conflict that prevents Holtec from complying with both sets of regulations. Mr. Lampert disagrees that OSA and Clean Water Act do not cover radiological materials. The state will need to address this.

Mr. Gottlieb noted that the legislature amended the OSA to allow for municipal wastewater flows, but chose not to allow the discharge discussed here.

Mr. Lampert will provide the presentation to the NDCAP through Ms. duBois.

PUBLIC COMMENTS

Ms. Cosentino read a statement on behalf of the Melissa Ferretti. Ms. Ferretti is the chair lady of the Herring Pond Wampanoag Tribe (Tribe). The statement began by describing the lands and waters used by the Tribe and their respect for those natural resources. The discharge proposed by Holtec would damage those resources including the aquatic marine life. Ms. Ferretti along with the Tribe oppose the discharge because no amount is safe and is seen as a continuation of centuries of colonial domination. Ms. Ferretti reminded the panel and public that the members of the Tribe were the original inhabitants and stakeholders of these lands.

The statement read by Ms. Cosentino referred to Article 32 Paragraph 2 of the Nations Declaration on the Rights of Indigenous Peoples. It states that all indigenous people have a right to good faith consultation and cooperation prior to the approval of any project affecting their lands including exploitation of minerals and water. The statement concluded with the Tribe's frustration with the lack of transparency and consideration for their actions. The Tribe does not want this water discharged.

Ms. Diane Turco informed the panel that Save the Bay has been in touch with U.S. Senator Ed Markey's office along with the EPA and Holtec. Ms. Turco believed that the presentation by Holtec was inaccurate because the water sampling information was not in conjunction with any regulatory actions.

She then asked Mr. Noyes whether Holtec will apply for a new NPDES Permit. Mr. Noyes responded that Holtec intends to. Ms. Turco then asked whether Holtec is willing to wait up to 12 months to obtain a new NPDES permit.

Ms. Turco reiterated that Holtec could not discharge under the current NPDES permit and that it could take up to 12 months to get a new or modified permit. She again asked whether Holtec would not discharge for up to 12 months. Mr. Noyes stated that he cannot make that commitment at this point.

Ms. Turco asked again whether Holtec will commit to not discharge any wastewater in violation of the current permit that prohibits this activity. Mr. Noyes indicated that he already answered this question.

ADJOURNMENT

A motion to adjourn was made and seconded. The motion passed unanimously.

The meeting was adjourned at about 9:30 pm.