Jones River Watershed Association*Pilgrim Watch

June 15, 2012

Bruce K. Carlisle, Director
Massachusetts Office of Coastal Zone Management
251 Causeway Street
Suite 800
Boston MA 02114

Re: MCZM Consistency Certification: Entergy's Pilgrim Nuclear Power Station, Plymouth MA

We ask the Massachusetts Coastal Zone Management (MCZM) to reconsider its' May 21, 2012 decision not to reopen its six-year old 2006 consistency certification for the Nuclear Regulatory Commission (NRC) 20-year relicensing of the Pilgrim Nuclear Power Station (PNPS). (May 21 Letter) See, JRWA and Pilgrim Watch letter of April 4, 2012. On May 25, 2012, the NRC approved Entergy-Louisiana's application to relicense PNPS through 2032, with the renewal period beginning June 8, 2012. Prior to the renewed license effective date of June 8, we presented MCZM with *prima facie* evidence that a supplemental consistency review was required and that MCZM had a duty to so notify Entergy. See, 15 CFR § 930.66(a) and (b).

A marked reluctance to make any thoughtful or independent statement about the environmental impacts of PNPS relicensing permeates MCZM and MassDEP's historic and present dealings with PNPS owners and operators. This is despite the fact that two federal statutes explicitly express the duty, as well as the right, of states to impose their own standards on all projects, including nuclear facilities, in the coastal zone.See, 16 USCS § 1452(1), (2), and § 1456(f). These duties exist independent of, and are unaffected by, the fact that PNPS is a nuclear facility that is also subject to federal laws. MCZM's failure to require supplemental coordination is but another abdication of the state's independent and essential environmental review duties, intended to protect its citizens and resources, which we continue to document. MCZM's actions are arbitrary, capricious and an abuse of discretion, or otherwise not in accordance with law.

Reopening Standard Is Met

Supplemental coordination is mandated here by 15 CFR § 930.66(a)(2), which provides that where "there are significant new circumstances or information relevant to the proposed activity and the proposed activity's effect on any coastal use or resource" then "substantially different coastal effects are reasonably foreseeable" and reopening is required. We have provided ample evidence that relicensing will have "substantially

different coastal effects" compared to those Entergy described in its scanty 2006 consistency certification report contained in its "Environmental Report." [1] certification.

These "substantially different coastal effects" are described in the documents identified in the attached list.

Entergy's April 11, 2012 Letter (Entergy Letter) claims the only applicable grounds for reopening are whether Entergy "proposed material changes to its federally permitted activity" per §930.66(a)(1). Entergy Letter, Part I, page 4. Entergy ignores the two additional grounds or reopening: § 930.66(a)(2), which requires reopening when there are "significant new circumstances or information" and § 960.66(a)(3) which requires reopening when "substantial changes were made to the activity." By accepting Entergy's analysis, MCZM misapplies the law and fails to consider and apply the breadth of its independent state authority.

We respond briefly to the Entergy Letter below.

State authority under the CZMA and state Clean Waters Act

In the CZMA, Congress identified the relicensing of a nuclear reactor as subject to federal consistency review.[2] It preserves the states' independent rights to regulate water quality. 16 U.S.C.S. §1456(f). MCZM regulations require an applicant seeking a federal consistency certification to possess all necessary state permits. 301 CMR §§ 20.00 to 26.00. As we have shown elsewhere, Entergy's 1994 joint state-federal surface water discharge permit and the state § 401 water quality certification for the permit are not valid, current permits. Entergy has not demonstrated compliance with the Commonwealth's cooling water intake structure (CWIS) and other water quality standards at 314 CMR § 4.00. Therefore, it does not "possess all necessary state permits."

An applicant seeking a consistency review "shall furnish to the state…all necessary information and data," 16 U.S.C.S. 1456(c)(3)(A), including "**all**

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[1] Entergy's "Coastal Zone Management Consistency Certification" is Attachment D to Appendix E to "Applicant's Environmental Report Operating License Renewal Stage," filed with the NRC January 27, 2006. Since MCZM issued the July 11, 2006 consistency certification ***before the NRC's draft Supplemental Environmental Impact Statement (SEIS) for PNPS was published in December 2006,*** MCZM cannot even claim that it reviewed the NRC's EIS for Pilgrim prior to issuing the July 2006 consistency

[2] The CZMA establishes a national policy to "preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations" and to "*encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone...*" 16 U.S.C.S. § 1452(1) and (2). (emphasis added) Coastal effects are defined broadly, and include "not only environmental effects … but also to effects on human uses, such as fishing and boating, public access and recreation, scenic and aesthetic enjoyment, and resource creation or restoration. Furthermore, effects include both direct effects that occur from the federally licensed activity at the same time and place, and indirect effects resulting from the incremental impact when added to other past, present, and anticipated actions, regardless of who undertakes such actions."15 C.F.R. § 930.11(g).

material relevant to a State's management program…." 15 CFR § 930.58; 301 CMR 21.07(3). See, e.g. Conservation Law Foundation v. Lujan, 560 F. Supp. 561 (D.Mass. 1983). Entergy has failed to furnish all necessary information and data, including a valid state permit and § 401 certification, and other information identified in the attached list.

One of the state's core CZM policies is the impact of CWIS. MCZM has largely ignored its obligation to ensure that this policy is met.[3] The last federal Clean Water Act (CWA) §§ 316(a) and (b) demonstration reports accepted by the state and/or US EPA for PNPS were done in the 1970s. We have filed a claim with the NRC asserting that any attempt by the NRC to rely upon 40 year old § 401 certificates, expired surface water discharge permits, and the 2006 MCZM certificate based on this outdated data, is unreasonable and an egregious derogation of duty. By providing a CZM certificate based on this outdated data, MCZM has enabled the NRC and Entergy to subvert the purposes of state and federal water pollution laws and the CZMA. The MCZM certificate is thus inconsistent with the Congressional findings outlined in the CZMA, § 1451(a)-(m) and the Congressional declarations of national policy in § 1452.

MCZM's own policy guidance documents expose the falsity of Entergy's argument that JRWA's challenge to the 2006 certificate "conflates separate NRC and EPA proceedings." A CZM certificate is required for NRC licensing. In turn, a CZM certificate requires that MCZM make certain rational findings under its state program. As explicitly laid out at length in the MCZM policy, those findings include whether there is compliance with the Clean Water Act, and whether Entergy has all "necessary state permits."

Radioactive Releases to Cape Cod Bay

Entergy's argument that CZM cannot address radiological considerations is wrong. Entergy Letter, p. A-7. In passing the CZMA, Congress acted with full knowledge of the pre-existing 1954 Atomic Energy Act (AEA) and the NRC's authority over certain, but not all, areas of the operation of a nuclear power station.

The impacts of Entergy's radioactive releases to Cape Cod Bay via atmospheric deposition and surface and groundwater effluent discharges must be considered by MCZM in making a consistency determination. Massachusetts never ceded this

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[3] Under NRC rules, the Applicant must provide "a copy of a current Clean Water Act 316(b) determinations [sic] and, if necessary, a 316(a) variance in accordance with 40 CFR part 125, or equivalent State permits and supporting documentation. If the applicant cannot provide these documents, it shall assess the impact of the proposed action on fish and shellfish resources resulting from heat shock and impingement and entrainment." 10 C.F.R. 51,53(c)(3)(ii)(B). In an attempt to meet this requirement, Entergy filed with its license application two letters from the state, dated April 15, 1971 and July 31, 1970, which it claims are § 401 certifications, and an excerpt from the now-expired 1994 NPDES permit purporting to state that the current CWIS is the "best technology available for minimizing adverse environmental impact." See, "Applicant's Environmental Report, Operating License Renewal Stage", Attachment A, which is part of Entergy's NRC relicensing Application. See Sections 4.2.5, Page 4-8, and 4.3 of Entergy's (ER) In its response to our claim, Entergy produced the water quality certifications for the 1991 permit, but the NRC did not have these when they issued the new license on May 25, 2102.

sovereign authority to the NRC. Moreover, under Massachusetts' agreement with the NRC, the NRC has explicitly relinquished to the Commonwealth the authority to ensure that Entergy's discharges of radioactive byproduct materials are not inconsistent with coastal zone and coastal uses under the CZMA.[4]

While Entergy attempts to argue that the NRC preempts all state authority over radiological safety, courts have been careful to interpret the AEA in a manner that does not preempt state sovereign powers and rights of action under state laws. See, e.g. Kerr-McGee v. City of West Chicago, 914 F.2d 820 (N.D. Ill. 1990), Maine Yankee v. Bonsey, 107 F. Supp. 47 (D. Me. 2000). Ensuring that Entergy's constant, ambient discharges of radioactive materials (an nonradiological materials) to air and water is consistent with the state MCZM policy is directly related to Entergy's CWIS operations -- a subject Entergy expressly emphasizes as outside the NRC's jurisdiction. Entergy Letter, p. 4. Brown v. Kerr-McGee Chem. Corp, 767 F. 2d 1234 (1985) cert. denied, 475 U.S. 1066, is a seminal and soundly reasoned case, reminding us that, consistent with other federal-state law preemption analyses, preemption of state law should be explicit. Where it is not, only those elements of state law which directly interfere with federal occupation of a field are suspect. As noted earlier, the express authority retained by, or given to states under CWA and CZMA, are unaffected by the fact that a nuclear power facility is at issue. The Commonwealth's responsibilities cannot be ceded even on this ponderous issue of water quality standards.

Entergy's argument that MCZM should ignore PNPS tritium discharges to groundwater flowing to Cape Cod Bay falls especially short. The Massachusetts Department of Public Health has been actively exercising its state authority under the Agreement to require that Entergy maintain monitoring wells and report its results pursuant to the state's Radioactive Materials Program and no preemption argument with regard to MDPH's requirements has ever been raised.[5] It is illogical to argue that the NRC should have sole authority over something that the NRC is not, in fact, regulating in Massachusetts or that the data Entergy is providing to a sister state agency of MCZM cannot be referenced or analyzed by MCZM.

Massachusetts Surface Water Quality Standards Govern Entergy's Radioactive Releases

Massachusetts, as a non-delegated state under the federal Clean Water Act NPDES program, possesses entirely independent and antecedent authority to regulate discharges of pollutants, including radioactivity, to surface waters of the Commonwealth[6] M.G.L. c.

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[4] The NRC relinquished to the Commonwealth regulatory authority over "byproduct materials as defined by Section 11e.(a) of the [Atomic Energy] Act," See, Article I, p. 2, "Agreement Between the United States Nuclear Regulatory Commission and the Commonwealth of Massachusetts for Discontinuance of Certain Commission Regulatory Authority and Responsibility within the State Pursuant to Section 274 of the Atomic Entergy Act of 1954, As Amended", dated Marcy 19, 1997.

[5] See, e.g., http://www.mass.gov/eohhs/consumer/community-health/environmental-health/exposure-topics/radiation/radioactive-materials/radioactive-materials-program.html

[6] Massachusetts CWA permit No. 359, was first issued to PNPS in the 1970s. 314 CMR 4.05(5)(d) requires

21, §§ 26 – 53. Massachusetts' water quality standards, including the standard for radioactivity in 314 CMR § 4.05(5)(d), do not interfere with the NRC's regulation of radiation hazards. The NRC does not set water quality standards to prevent harmful impacts on human, animal or aquatic life of the most sensitive designated uses of Cape Cod Bay, as do the Massachusetts water quality standards. See, 314 CMR 4.05(4)(a). There is no conflict between MCZM's authority to conduct a consistency review of Entergy's radiologic effluent releases on coastal zone resources and uses because this is an area that the NRC does not regulate.

Entergy argues ferociously that the "NRC has no jurisdiction over NPDES considerations." The NRC also cannot interfere with the state's sovereign authority under its own state water quality standards, which are protective of state designated uses of state waters. Although U.S. EPA does not regulate radioactivity as a pollutant under the federal act, Massachusetts may and has established its own standards.

On May 21, 2012, the U.S. National Marine Fisheries Service (NMFS) issued a recommendation to the NRC under the federal Endangered Species Act on possible impacts to endangered species of radiological releases from PNPS. NMFS recommended to the NRC that the license include several conditions.[7] NMFS states, "We have indentified several areas where additional and/or more recent information would be helpful to better characterize effects of the Pilgrim facility." NMFS recommends "revising the species sampled in the REMP to include species that serve as forage for listed species and species that occupy similar ecological niches as Atlantic sturgeon, whales and sea turtles and could be considered surrogate species for radionuclide testing." NMFS Letter, p. 31. NMFS implicitly concluded that Entergy's radioactive effluent releases may affect endangered species such as Atlantic sturgeon, whales and sea turtles. This fact must be considered by MCZM in determining whether supplemental coordination is warranted.

MCZM's Decision is Contrary to the SJC's Recent Decision in Entergy v. MassDEP

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that all surface waters shall be free from radioactive substances in concentrations or combinations that would be harmful to human, animal or aquatic life or the most sensitive designated use; result in radionuclides in aquatic life exceeding the recommended limits for consumption by humans; or exceed Massachusetts Drinking Water Regulations as set forth in 310 CMR 22.09. Under 314 CMR 4.05(4)(a), Cape Cod Bay is a Class SA: "These waters are designated as an excellent habitat for fish, other aquatic life and wildlife, including for their reproduction, migration, growth and other critical functions, and for primary and secondary contact recreation. In certain waters, excellent habitat for fish, other aquatic life and wildlife may include, but is not limited to, seagrass. Where designated in the tables to 314 CMR 4.00 for shellfishing, these waters shall be suitable for shellfish harvesting without depuration (Approved and Conditionally Approved Shellfish Areas). These waters shall have excellent aesthetic value.").

[7] NMFS says it reviewed Entergy's Radiological Evaluation Monitoring Reports (REMPs) for 2009, 2010, and 2011 (which we contend are problematic in numerous respects). We note that Entergy's REMPs summarize radiological impact on humans. No where do they assess impacts on the uses designated for Cape Cod Bay under 314 CMR 4.05(4) or on other coastal zone resources and uses, such as noncontact recreation

Entergy falsely states that the Massachusetts CWIS regulations in 314 CMR 4.05 contain no new substantive requirements. Entergy Letter at A-2. In Entergy vs. Department of Environmental Protection, 459 Mass. 319 (2011), the Court reiterated that under the federal CWA, the states "retain the right to impose pollution control limits that are more stringent than the "floor" set by Federal law" and that states have independent authority under the CWA, § 1341, to certify that the permittee's activities will not violate the State's water quality standards.

The SJC stated,

> ...the ecological harms associated with CWISs are well understood. The intake of water a CWIS at a single power plant can kill or injure billions of aquatic organisms in a single year. The environmental impact of these [cooling water intake] systems is staggering...destabilizing wildlife populations in the surrounding ecosystem. *In areas with a designated use as aquatic habitat (such as Cape Cod Bay where Pilgrim's CWIS operates), therefore, CWISs hinder the attainment of water quality standards.* (citations omitted; emphasis supplied)

Entergy claims the SJC decision means the state has no authority declare its CWIS are inconsistent with MCZM policy, a reading belied by the plain language of the holding.[8] Neither the federal CWA nor the Atomic Energy Act strips Massachusetts of its sovereign powers to regulate Entergy's CWIS, as Entergy implies in its rambling citations to MOU's and NRC administrative law judge decisions. See, Entergy Letter, p. 5-6. Entergy's analysis of the evolution of the NRC's authority in relation to the Atomic Energy Commission is wholly irrelevant to the independent authority of the Commonwealth of Massachusetts to exercise its sovereign authority over its territorial waters. See, Entergy Letter, p. 4-5. This state authority and responsibility includes the timely renewal of state clean water act permits, and exercise of the authority Congress has explicitly given to the state in the CZMA to make unilateral decisions to protect its resources, regardless of NRC's rules, conduct, or attempts to short circuit and avoid mandated environmental reviews.

MCZM's Decision Contradicts the Massachusetts Attorney General's Position on PNPS Relicensing

MCZM's decision not to reopen the 2006 certification contradicts the position of the Massachusetts Attorney General in her April 5, 2012 appeal to the First Circuit. In appealing the NRC's denial of the Commonwealth's request for a hearing on a contention challenging the severe accident mitigation alternatives analysis in the wake of the

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[8] Entergy's timing in bringing the case is indeed curious: within months of submitting its request for MCZM certification, Entergy had sued MassDEP to prevent implementation of the state's CWIS regulations at Pilgrim. Since Entergy owns no other power plant in Massachusetts that has a CWIS, except Pilgrim, Entergy's lawsuit to prevent implementation of the CWIS regulations was nothing but a blatant attempt to avoid having to comply with state CWA standards at Pilgrim. By suing the state, Entergy, indeed, won a 5-year reprieve, during which time, your office issued its CZM certification. Entergy initiated the CWIS challenge in January, 2006, and it was finally resolved by the SJC in 2011.

Fukushima-Dai-ichi disaster, the Attorney General asserts that "new and significant" information must be considered before the NRC decides on Entergy's relicensing. The AG's contentions are based, in part, on two reports from Gordon R. Thompson asserting that the environmental impact statement for PNPS relicensing required revision. See, e.g., Aug. 8, 2011 Report, p. IV-2. The AG asserts in federal court that a new environmental impact analysis is required under the National Environmental Policy Act (NEPA) "because the environmental risks posed by the Pilgrim spent fuel pools are inextricably linked to the environmental risks of a core-melt accident and thereby to the NRC's SAMA analysis for Pilgrim.[9]

Although the stated concern regarding post accident aqueous discharges is valid and urgent, the logical extension of this argument has not, and must be, considered by the state regulatory agencies in order to comply with their explicit statutory mandate, to protect coastal zone resources and uses, including water quality and wildlife habitat. State agencies must also consider the constant daily radioactive discharges in effluent over forty years of PNPS operation, which will continue for another twenty years – making a total of sixty years. That this has not been considered by MCZM, Mass Marine Fisheries or MassDEP is baffling, given that in 1976 and again in 1988 data showed significant bioaccumulation of nuclear material from PNPS in blue mussels, a filter feeder and bottom of the food chain accumulator of radioactive material. This information warrants reopening the 2006 MCZM certification.

MESA

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[9] Commonwealth's "Conditional Motion to Suspend Pilgrim Nuclear Power Plant License Renewal Proceeding Pending Resolution of Petition for Rulemaking to Rescind Spent Fuel Rod Exclusion Regulations," Docket No 50-293-LR, filed with the NRC June 2, 2011, and Pilgrim Watch's Request For Hearing On A New Contention Regarding Inadequacy Of Environmental Report, Post Fukushima - Cost/Benefit, filed November 18, 2011 with the NRC. Pilgrim Watch claims certain aqueous offsite discharges had not been modeled properly:

> The computer code to model the cost-benefit analysis (MACCS2), that Entergy chose to use for its SAMA, does not currently model and analyze aqueous transport and dispersion of radioactive materials; and there is no provision within the Severe Accident Mitigation Guidelines (SAMGs) for processing the water post accident, just as there was no discussion in NUREG/CR-5634. Lessons learned from Fukushima show that we are now placed at significant risk. **As in Japan, if there should be a severe accident at Pilgrim, enormous quantities of contaminated water are likely to enter Cape Cod Bay and other waters (adding to the radioactive atmospheric fallout on the water and runoff) posing significant offsite consequences and costs, threatening the health of citizens and the ecosystem and damaging the economy.** NEPA requires that these technical gaps be addressed prior to any licensing decision. Absent addressing these gaps, Entergy fails to satisfy the purpose of its required SAMA review to ensure that any plant changes that have a potential for significantly improving severe accident safety performance are identified and addressed.

Entergy's April 11, 2012 letter, see, e.g., P A-4, conveniently ignores the fact that MESA MGL c. 131A, § 1, defines "take", in reference to animals to include " to harass, harm, pursue, hunt, shoot, hound, kill, trap, capture, collect, process, disrupt the nesting, breeding, feeding or migratory activity or attempt to engage in any such conduct, or to assist such conduct...." This broad definition includes provisions to guard against impacts that are less than an actual killing of the species, and includes impacts on food supplies and the ambient environment of endangered species.

The JRWA/PW request forcefully demonstrates that supplemental coordination by MCZM is required

Entergy claims JRWA's request is tardy and insufficient. It is never too late to identify and address impacts which the state agency has heretofore ignored or failed to consider when clear facts in the record mandate such a review; that is the purpose of the statutes. We believe the story of wholesale failure of the regulatory system is unfolding: from the NRC's flawed and unlawful decision to relicense Pilgrim in the absence of a valid and enforced effluent discharge permits from the MassDEP and EPA to MCZM's failure to investigate and consider data in the state's own files.

Entergy's claim that the CZM Office "has played a continuing, active role in the review of federally authorized action associated with Pilgrim" is patently untrue. Entergy Letter, p. 2. No "active role" by any state or federal agency with regard to the impacts associated with Entergy's use of Cape Cod Bay has occurred for decades: the state and federal permits expired 16 years ago and the matter has sat dormant, other than a boilerplate request by U.S. EPA for CWA § 308 information. As a result, the NRC has relicensed Pilgrim based on a faulty1970s CWA § 316 demonstration report, outdated § 401 water quality certificate, and invalid CZM certificate --- and no agency of the Commonwealth has said a word in response. In light of the record before the agencies, augmented by our recent findings, MCZM's failure to reopen the consistency review is arbitrary, capricious, an abuse of discretion and otherwise not in accordance with law.

In addition to an action challenging the agency's decision, we may pursue a petition under 16 U.S.C.S. § 1458(a) to (c) and the Administrative Procedures Act before the Secretary to review the performance of MCZM with respect to coastal management. This process includes public participation, evaluation of the state's performance, as provided under §1458(b), and may include a request for suspension of federal financial assistance pursuant to § 1458(c)for noncompliance with the state CZM program.

Very truly yours,

Jones River Watershed Association

Pilgrim Watch

By: Margaret E. Sheehan, Esq.

Anne Bingham, Esq.

Cc:
Governor Duval Patrick
Secretary Rick Sullivan, EOEEA
Senator Therese Murray
Senator Marc Pacheco
Sen. William Brownsberger
Sen. Dan Wolf
Rep. Ann Gobi
Rep. Sarah Peake
Rep. Tom Calter
Rep. Vinny DeMacedo
U.S. EPA
MassDEP

Pilgrim Watch and Jones River Watershed Association Request for Reconsideration

Of MCZM Consistency Certification for Entergy's PNPS

The following documents set forth significant new circumstances or information which are relevant to the proposed activity and its' effect on any coastal use or resource:

1. June 1, 2011, "A Report to the Office of the Attorney General - Commonwealth of Massachusetts, by Gordon R. Thomson: "New and Significant Information from the Fukushima Daiichi Accident in the Context of Future Operation of the Pilgrim Nuclear Power Plant."

2. Feb. 6, 2012, Letter from JRWA to National Marine Fisheries Service (NMFS) regarding the absence of ESA concurrence.

3. Feb. 29, 2012, NRC Staff "Request for Concurrence on Determination of Effects Concerning Atlantic Sturgeon at Pilgrim Nuclear Power Station" and request for concurrence on NRC's 2006 biological assessment, pursuant to 50 CFR 402.12(j).

4. Mar. 8, 2012, Letter from NMFS to JRWA regarding "Ongoing Endangered Species Act Consulation, Pilgrim Nuclear Power Station."

5. April 3, 2012, Letter to NMFS from Whale and Dolphin Conservation Society concerning potential impacts of PNPS on endangered mammals .

6. April 5, 2012, AG Petition for Review of CLI-12-06 (U.S. NRC's Denial of Massachusetts Attorney General's Petition for a Hearing)

7, April 12, 2012, Memo from Dr. Charles Mayo, Senior Scientist and Director of Right Whale Habitat Studies, Provincetown Center for Coastal Studies entitled "Response to questions regarding the effects of Pilgrim Nuclear Power Station operations on Northern Right Whales, Critical Habitat, and the Cape Cod Bay Ecosystem" sent by email to MCZM on April 13, 2012.

8. April 12, 2012, Letter from EcoLaw to NMFS regarding ESA issues including radioactive releases, thermal backwashes and biocides, sea turtles, climate change, fish as food supply for whales, plankton, Entergy's withholding of relevant data, Marine Mammal Protection Act, and river herring, with Attachments (Affidavit of Alex Mansfield; Affidavit of Anne Bingham, Esq., Affidavit of Pine duBois, JRWA; Reply Affidavit of Alex Mansfield; Thompson Report; Beya report, DPH report, Scheffer email,

9. April 17, 2012, Letter from EcoLaw to U.S. Fish and Wildlife Service re: impacts of PNPS on roseate tern, sent by email to MCZM ..

10. April 18, 2012, sighting data from right whales, send by email from JRWA/Sheehan to MCZM.

11. April 24, 2012, Letter from EcoLaw to NMFS re: PNPS water pollution impacts on ESA listed species and habitat, send by email to MCZM.

12. April 24, 2012, Email to MCZM sending copy of April 27, 2000 letter from NMFS to USFOS Construction regarding endangered and threatened whales in the waters off Plymouth and importance of "strict adherence to water quality standards and critieria" in connection with Plymouth's waste water treatment facility.

13. May 2, 2012, JRWA and PW contention on ESA and Roseate Tern, filedwith the Atomic Safety Licensing Board in License Renewal proceeding, 50-293-LR, including Affidavit of Ian Nisbet, PhD.

14. May 9, 2012, Letter from EcoLaw to NMFS re: new information on river herring and shad stocks (ASMFC management report) sent by email to MCZM.

15. May 11, 2011, email JRWA/PW/Sheehan to NMFS re: information on ESA

16. May 14, 2012, JRWA and PW contention on CZMA and Clean Water Act, filed with the Atomic Safety Licensing Board in License Renewal proceeding, 50-293-LR

17. May 17, 2012, NMFS concurrence determination letter to NRC staff disagreeing with NRC's 2006 and 2012 decisions that PNPS relicensing will have "no effect" on ESA listed species and critical habitat and identifying several areas where additional and/or more recent information would be helpful to better characterize effects of PNPS on endangered species.

18. May 2012, JRWA and PW contention on Coastal Zone Management certification and Clean Water Act permits filed with NRC.

19. June 5, 2012, Institute for Energy and Environmental Research, Comments on "Analysis of Cancer Risks in Populations near Nuclear Facilities, Phase I, prepublication copy, June 5, 2012. Copy provided with this letter.