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By Meg Sheehan

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OF NUCLEAR INTEREST: Entergy should provide compensation for use of public tidelands

Since the early 1970s, the Pilgrim Nuclear Power Station in Plymouth has been using the lands along Cape Cod Bay that belong to the public. This land is known as “public tidelands” – the legal term for all land beneath the surface of the ocean, including land in the intertidal area (i.e., between the high and low tide marks).

In Massachusetts, public ownership of land begins at the high water mark. The state holds the tidelands land “in trust” for the benefit of the public. The public has the right to use the tidelands for certain purposes, generally, fishing, fowling and boating. Entergy, Pilgrim’s owner, can only use the public’s land subject to a “Chapter 91 Waterways” license from the state. The law requires private corporations that want to use the public tidelands to pay compensation to or provide mitigation for interfering with the public’s rights.

In the 1960s and ’70s, Massachusetts granted Entergy’s predecessor, Boston Edison, licenses to use the public tidelands in front of Pilgrim. In 1969, Boston Edison paid Massachusetts about \$51,000 for a Chapter 91 Waterways license for a breakwater and intake structure, and to dredge. Over the 42 years that Pilgrim has operated to date, this amounts to about \$1,200 per year for exclusive use of our shoreline.

Now Entergy needs another Chapter 91 Waterways license for an emergency cooling water system, because Pilgrim cannot safely operate without it in the event of an “extreme natural phenomena” such as a storm, ice, snow or high temperatures, according to the U.S. Nuclear Regulatory Commission (NRC). The NRC made this finding in its Near Term Task Force report after the Fukushima, Japan, nuclear disaster.

Unless Massachusetts grants this Chapter 91 Tidelands license, Pilgrim will not in all likelihood be able to continue operations. So far, Entergy has not offered any compensation or mitigation in exchange for interfering with the public’s rights to use the tidelands under the license.

DEP will hold a public hearing on Entergy’s Chapter 91 Waterways license application at 10 a.m. Tuesday, Nov. 18, at Plymouth Town Hall. This is a chance for people to weigh in on whether DEP should grant or deny the license for Pilgrim’s safety fix and how much compensation or mitigation should be provided if it is granted. This license will likely last at least 60 years – as long as there is high level nuclear waste at Pilgrim. Entergy’s compensation and mitigation should be enough to compensate present and future generations for its taking of our precious shoreline.

Meg Sheehan is an environmental advocate and volunteer with Cape Cod Bay Watch. As a fourth generation native Plymouthean, she and her family grew up clamming, fishing, sailing, swimming and walking Plymouth’s waterways and tidelands.

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