



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

February 18, 2016

Entergy Nuclear Operations, Inc.
600 Rocky Hill Road
Plymouth MA 02360

RE: PLYMOUTH—Wetland & Waterways
NON-SE-16-6WY001

NOTICE OF NONCOMPLIANCE

**THIS IS AN IMPORTANT NOTICE.
FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE COULD
RESULT IN SERIOUS LEGAL CONSEQUENCES.**

The Massachusetts Department of Environmental Protection (the "Department") has received information that two (2) cleat-held lines with float markers had been installed in the waters adjacent to the Pilgrim Nuclear Power Station located at 600 Rocky Hill Road in Plymouth. Such lines are considered "structures" subject to jurisdiction under the Massachusetts Public Waterfront Act, M.G.L c. 91. The Department has determined that these structures are not authorized under M.G.L c. 91. Therefore, these structures are in noncompliance with one or more laws, regulations, orders, licenses, permits, or approvals enforced by the Department.

Enclosed hereto is a written description of the following: 1. each activity referred to above; 2. the requirements violated; 3. the action the Department now wants you to take; and 4. the deadline for taking such action. An administrative penalty may be assessed for every day from now on that you are in noncompliance with the requirements described in this Notice of Noncompliance ("NON").

Notwithstanding this NON, the Department reserves the right to exercise the full extent of its legal authority in order to obtain full compliance with all applicable requirements, including, but not limited to, criminal prosecution, civil action including court-imposed civil penalties, or administrative penalties assessed by the Department.

If you have any questions in regard to this NON, please contact David E. Hill of the Waterways Program at (508) 946-2730.

Very truly yours,



David R. Johnston
Deputy Regional Director
Bureau of Water Resources

DRJ/spw
Enclosure

ecc: DEP-SERO – James Mahala, Chief, Wetlands & Waterways Program
David E. Hill, Waterways Program
Shaun P. Walsh, Senior Regional Counsel
DEP-SERO, Attn: Regional Enforcement Office (2 copies)

Beals + Thomas, Inc.
Attn: Eric J. Las, P.E.
32 Court Street
Plymouth MA 02360

Ruth H. Silman, Esq.
Nixon Peabody, LLP
100 Summer Street
Boston MA 02110

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NOTICE OF NONCOMPLIANCE
NON-SE-16-6WY001

NAME OF ENTITY IN NONCOMPLIANCE:

Entergy Nuclear Operations, Inc.

LOCATION WHERE NONCOMPLIANCE OCCURRED OR WAS OBSERVED:

The waters of Cape Cod Bay off the northeastern shoreline of the site of the Pilgrim Nuclear Power Station in Plymouth, Massachusetts, between the shoreline and the rock groin that extends east from the eastern side of the cooling water discharge canal.

DATE WHEN NONCOMPLIANCE OCCURRED OR WAS OBSERVED:

On or about 9/16/2015.

DESCRIPTION OF NONCOMPLIANCE:

Unauthorized construction of two (2) lines in the waters of Cape Cod Bay, extending in a northeasterly direction from the northeastern shoreline of the site of Pilgrim Nuclear Power Station in Plymouth, Massachusetts, attaching to the rock groin that extends east from the eastern side of the cooling water discharge canal. The 2 lines and associated floats and cleats were installed without authorization from the Department pursuant to M.G.L. c. 91 and 310 CMR 9.00.

DESCRIPTION OF THE REQUIREMENTS NOT COMPLIED WITH:

310 CMR 9.03 Scope of Jurisdiction

- (1) Authorization of Projects By the Department. Written authorization in the form of a license, permit, or amendment thereto must be obtained from the Department before the commencement of one or more activities specified in 310 CMR 9.03(2) and (3) or 310 CMR 9.05 and located in one or more geographic areas specified in 310 CMR 9.04, unless the legislature has specifically exempted any such activity(ies) from Department jurisdiction under M.G.L. c. 91.

310 CMR 9.05 Activities Subject to Jurisdiction

- (1) Activities Requiring a License Application. Except as provided in 310 CMR 9.05(3), an application for license or license amendment shall be submitted to the Department for the following activities involving work on or use of fill or structures:
- (1) any construction, placement, excavation, addition, improvement, maintenance, repair, replacement, reconstruction, demolition, or removal of fill or structures

not previously authorized, or for which a previous grant or license is not presently valid;

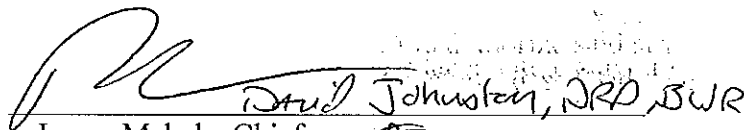
- (2) any existing or proposed use of any fill or structures not previously authorized, or for which a previous grant or license is not presently valid;


ACTION TO BE TAKEN, AND THE DEADLINE FOR TAKING SUCH ACTION:

1. Within thirty days (30) days of the date of this NON, Entergy Nuclear Operations, Inc. shall either remove all unlicensed structures described herein or file a Chapter 91 Waterways Application with the Department to authorize said structures. The application shall be for authorization of all unlicensed structures described herein, including but not necessarily limited to the 2 lines and associated floats and cleats. If said structures are removed, then Entergy Nuclear Operations, Inc. shall submit to this office photographic documentation of removal within five (5) days of said removal.
2. Within seven (7) days of the date of this NON, Entergy Nuclear Operations, Inc. shall notify this office as to your intention regarding this matter.
3. Each document submission required from you by this NON shall refer to the File Number **NON-SE-16-6WY001** and be made in writing to:

Massachusetts Department of Environmental Protection
Southeast Regional Office
Wetlands-Waterways Program, Attn: David E. Hill
20 Riverside Drive
Lakeville, MA 02347

BY:


David Johnston, JRD, SWR

James Mahala, Chief 
Wetlands and Waterways Program

DATE: 2-18-16