
OF NUCLEAR INTEREST: Case over nuclear waste storage goes to trial

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By Meg Sheehan

In August 2013, a group of local residents sued the town of Plymouth and Entergy over violations of local zoning laws at the Pilgrim Nuclear Power Station. The lawsuit asserts that the town building inspector illegally approved Entergy's massive new nuclear waste storage facility as an "as of right" use, without a special permit. Since 2013, Entergy has tried various legal tactics to get the case thrown out of court and to limit the evidence that the citizen plaintiffs can use to prove their case. The plaintiffs survived all of Entergy's maneuvers and the case goes to trial Aug. 8 at Land Court in Boston. It is open to the public and is scheduled for the weeks of Aug. 8 and Aug. 22.

The lawsuit aims to ensure that the 42 years of lethal nuclear waste now in the wet pool at Pilgrim is stored and managed in the best possible manner and according to the standards recommended by public interest advocates. Entergy wants the cheapest, easiest way to store the waste in "dry casks" – outside, uncovered, and within approximately 150 feet from the shoreline of Cape Cod Bay, where they are susceptible to rising sea levels, storms and flooding. The most robust dry cask storage facility would have additional features, such as real

time monitoring for radiation leaks, a roof to help prevent the vents in the casks from being clogged with ice and snow, and a location further from the shoreline and at higher elevation.

Shockingly, the town is siding with Entergy against its own residents, defending the building inspector's 2013 decision that the new nuclear waste storage facility, which will cost several hundred million dollars – is merely “accessory” to Pilgrim. By categorizing the facility as “accessory,” the town allowed Entergy to side-step a public process and public hearing that would be required if a special permit were required. Entergy's lawyer, in 2013, told the Plymouth Zoning Board of Appeals that the company had a “special understanding” with the town that new construction at Pilgrim could bypass the special permit process. The town's present and former planners even signed an affidavit – at Entergy's behest – saying this.

This case is one more example of how town officials are making a mockery of the zoning bylaws. These laws are intended to protect the public, the value of peoples' homes, and qualities such as rural character. As we have seen with the failure to enforce zoning laws for sand and gravel mining operations and allowing industrial solar facilities to be built in rural residential neighborhoods, the town's zoning officials always side with corporations and developers. In the Pilgrim lawsuit, the town's refusal to step up and reverse the indefensible position of the building inspector on the nuclear waste dump is one more example of betrayal of the public trust.

A judge will be the final decision-maker in the Pilgrim nuclear waste dump case. A decision is expected by the end of 2016. If Entergy loses, it will undoubtedly appeal. Maybe that will be a chance for the town of Plymouth to side with its residents and taxpayers, instead of with the nuclear power company.

For more information and updates about the trial, visit

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Meg Sheehan is lead trial attorney on the Pilgrim zoning case and is providing pro bono legal services in coordination with Earthrise Law Center of Portland, Oregon.

