



For Immediate Release

September 28, 2016

Contacts:

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NJDEP Decides to Go to Court

Legal Action Against Permit Issued by State for Salem Nuclear Generating Station Heads to Hearing

Trenton, NJ: Following a filing earlier this year, the New Jersey Department of Environmental Protection (NJDEP) notified the Delaware Riverkeeper Network that it intended to proceed with an adjudicatory hearing rather than avail itself of an alternative dispute resolution process. The notification, demonstrates NJDEP's continued refusal to engage in an open process for addressing a legal challenge to the permit issued for the Salem Nuclear Generating Station that allows over 14 billion fish, larvae and eggs to be killed by the facility each year.

July 8, 2016, the Delaware Riverkeeper Network filed with the NJDEP Office of Legal Affairs seeking a new hearing to review the renewed permit issued by NJDEP to PSEG's Salem Nuclear Generating Station located on Artificial Island in Salem County, NJ. The permit, as issued, would extend the Salem facility's use of once through cooling, a controversial technology that has been challenged by environmental organizations throughout the region as being out-dated, unnecessary, and responsible for annually killing billions of fish.

August 10, 2016, the NJDEP Office of Legal Affairs issued its notification that the Delaware Riverkeeper Network's Adjudicatory Hearing request had been granted. As part of this notification the Delaware Riverkeeper Network was notified of an opportunity for Alternative Dispute Resolution to consider and address the matter. The Delaware Riverkeeper Network indicated its openness to the ADR process.

September 27, the Delaware Riverkeeper Network was notified that NJDEP was not interested in attempting a resolution to the matter via ADR and preferred to go straight to a legal hearing process.

"It is unfortunate that NJDEP is so in league with industry that it is not even interested in attempting a process that can secure a resolution of this matter via a process that can save everyone both time and money. Given that NJDEP is funded by tax dollars, this is an unfortunate outcome for the taxpayers of NJ. But more importantly, we are disappointed by the NJ Department of Environmental Protection's continuing commitment to using outdated technology at Salem when there are other proven eco-friendly technologies available," said Maya van Rossum, the Delaware Riverkeeper and the leader of the regional environmental organization, the Delaware Riverkeeper Network. "The indiscriminate killing of over 14 billion fish, eggs and larvae every year by Salem is shocking given that those fish kills could be reduced by over 95% using existing technologies."

DELAWARE RIVERKEEPER NETWORK
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Issuance of the permit at issue for Salem had been prompted by legal action initiated in October 2013 by the Delaware Riverkeeper Network, New Jersey Sierra Club and Clean Water Action. The legal action had requested a court order instructing that NJDEP take action on PSEG's permit renewal application for the Salem Nuclear Generating Station located in Lower Alloways Creek Township, New Jersey. PSEG had submitted its renewal application for a New Jersey Pollution Discharge Elimination System (NJPDES) permit in February 2006, but NJDEP never made a determination on the application either by issuing a draft permit for public notice and comment, or by denying the permit. The case was resolved by a legal settlement in which New Jersey agreed to issue a permit draft. On June 30, 2015, complying with the settlement agreement, NJDEP issued a draft discharge permit to PSEG's Salem Nuclear Generating Station. On June 10, 2016, NJDEP issued a final permit.

Expert reports the Delaware Riverkeeper Network submitted to NJDEP during the permit's public comment period determined:

- Stopping the killing of fish with closed cycle cooling at Salem could provide economic benefits worth up to \$577 million..... ECONorthwest, p. vii
- 14.7 billion fish a year are impinged and/or entrained at Salem. Closed cycle cooling at Salem would reduce this mortality by over 12.8 billion. ECONorthwest, p. 4
- 14.7 billion fish impinged & entrained at Salem a year translates into 360 million fish killed in an average year that, but for Salem, would have survived to age one. ECONorthwest, p. 4
- "The total installed cost of [closed cycle cooling at Salem] (\$852 million) represents about 31 percent of the companies [PSEG & Exelon, Salem's owners] combined annual capital expenditure, and the annual loan payment of just two percent." ECONorthwest, p. 24
- Installing closed cycle cooling at Salem "would increase electricity rates by \$0.0036 per kWh." ECONorthwest, p. 25

Copies of the Delaware Riverkeeper Network comment and expert reports can be found at:

- <http://bit.ly/DRN-Salem2015Comment>
- <http://bit.ly/DRN-CEA2015SalemRept>
- <http://bit.ly/DRN-SalemExpertReport>

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[Delaware Riverkeeper Network \(DRN\)](#) is a nonprofit membership organization working throughout the 4 states of the Delaware River Watershed including Pennsylvania, New Jersey, Delaware and New York. DRN provides effective environmental advocacy, volunteer monitoring programs, stream restoration projects, public education, and legal enforcement of environmental protection laws.



Delaware Riverkeeper Network

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State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

OFFICE OF LEGAL AFFAIRS

MAIL CODE 401-04L, P.O. BOX 402

Trenton, NJ 08625-0402

TEL # (609) 292-0716

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

August 10, 2016

Nicholas Patton, Esq.
Delaware Riverkeeper Network
925 Canal Street, Suite 3701
Bristol, PA 19007

Re: PSEG NUCLEAR LLC - SALEM GENERATING STATION
NJ0005622

Dear Mr. Patton:

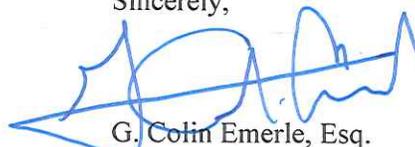
The Department of Environmental Protection has completed its review of your request, dated 7/8/2016, for an adjudicatory hearing regarding the above-captioned matter and hereby grants the request.

After a Deputy Attorney General has been assigned to represent the Department, the matter will be transmitted to the Office of Administrative Law. Thereafter, you will receive a Notice of Filing from the Office of Administrative Law informing you of the next step in the process.

The transmittal of this matter to the Office of Administrative Law does not constitute a waiver of the Department's right to limit the introduction or consideration in the hearing at the Office of Administrative Law of any defenses or issues which are inappropriately raised.

At this time, you may wish to consider requesting alternative dispute resolution through the Department's Office of Dispute Resolution. For information on the alternative dispute resolution process, visit www.nj.gov/dep/odr.

Sincerely,



G. Colin Emerle, Esq.
Regulatory Officer
Office of Legal Affairs

c: Pilar Patterson
OLA #16-0182

Updated 09-11-14



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

OFFICE OF DISPUTE RESOLUTION

P.O. Box 402, Mail Code 401-07, Trenton, New Jersey 08625-0402

Telephone Number (609) 633-7024

FAX NUMBER (609) 292-7695

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

RAY PAPPERMAN
Director

September 2, 2016

VIA ELECTRONIC MAIL

Maya van Rossum, The Delaware Riverkeeper
Nicholas Patton, Staff Attorney
Delaware Riverkeeper Network
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nick@delawariverkeeper.org

RE: Request for Dispute Resolution
PSE&G Nuclear LLC – Salem Generating Station
NJDEP PI# NJ0005622
Dispute: Conditions of the NJPDES-DSW Permit

Dear Ms. van Rossum and Mr. Patton:

The Office of Dispute Resolution has received your request for Alternative Dispute Resolution (ADR) in the above referenced matter. This office provides mediation and facilitation services to the New Jersey Department of Environmental Protection (NJDEP) and the regulated community.

By copy of this letter, your request is being submitted to the Water Resource Management Program for a decision as to whether the program will participate in ADR. Upon receipt of the program's decision, this office will advise you accordingly.

Should the program agree to participate in ADR, you will be contacted by this office to schedule an organizational conference call which should take approximately 20 minutes. During this call be prepared to discuss the following:

- A brief discussion of the nature of the case;
- Identification of the parties with settlement authority to attend the mediation session;
- Whether any informational exchange prior to the session would be helpful;
- Any further submissions that may assist us in preparing for the mediation (including confidential mediation statement);
- Scheduling the mediation date;

I look forward to discussing this matter further. Should you have any questions regarding this matter, please contact my office at 609-633-7024.

Sincerely,


Raymond S. Papperman

c: Jamie Gray, Program Contact
OLA (if requested)
File



State of New Jersey

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September 27, 2016

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Nicholas Patton, Staff Attorney
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RE: Request for Dispute Resolution
PSE&G Nuclear LLC – Salem Generating Station
NJDEP PI# NJ0005622
OLA # 16-0182

Dear Ms. van Rossum and Mr. Patton:

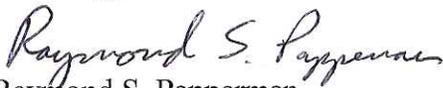
This is in follow up to your request for Alternative Dispute Resolution (“ADR”) in the above referenced matter.

Please be advised that the Water Resource Management Program has declined to participate in ADR. I regret that this office is unable to provide any further assistance.

By copy of this letter, I am referring the matter to the Office of Legal Affairs for determination on your request for an Adjudicatory Hearing.

If we may be of assistance on any other matter, please contact this office at the number above.

Sincerely,


Raymond S. Papperman

c: Jamie Gray, Program Contact
Colin Emerle, Esq., OLA
File