

DELAWARE RIVERKEEPER NETWORK,	:	
The DELAWARE RIVERKEEPER,	:	
SIERRA CLUB and CLEAN WATER	:	
ACTION, d/b/a NEW JERSEY	:	
ENVIRONMENTAL FEDERATION,	:	SUPERIOR COURT OF NEW JERSEY
	:	APPELLATE DIVISION
Appellants,	:	
	:	Docket No. A-1908-13
v.	:	
	:	CIVIL ACTION
BOB MARTIN, in his official	:	
capacity as Commissioner of	:	On Appeal from Agency Inaction
the New Jersey Department of	:	
Environmental Protection, and	:	
NEW JERSEY DEPARTMENT OF	:	
ENVIRONMENTAL PROTECTION,	:	
	:	
Respondents.	:	

SETTLEMENT AGREEMENT

The Parties, the Delaware Riverkeeper Network, the Delaware Riverkeeper, Sierra Club and Clean Water Action, d/b/a New Jersey Environmental Federation (collectively "Appellants"), as well as Bob Martin, in his official capacity as Commissioner of the New Jersey Department of Environmental Protection, and the New Jersey Department of Environmental Protection (collectively "Respondents"), have agreed to settle the above-captioned case in its entirety on the terms memorialized in this Settlement Agreement.

WHEREAS, the New Jersey Department of Environmental Protection ("NJDEP") administers the New Jersey Pollution

Discharge Elimination System ("NJPDES") permits under the authority of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and delegated authority under the federal Clean Water Act, 33 U.S.C.A. § 1251 et seq.;

WHEREAS, the NJDEP issues NJPDES permits for cooling water intake structures at certain large electric generating stations subject to Section 316(b) of the Clean Water Act, 33 U.S.C.A. § 1326(b);

WHEREAS, the NJDEP issued NJPDES Permit No. NJ0005622 (the "Permit") to Public Service Energy Group Nuclear LLP ("PSEG") on June 29, 2001, for the cooling water intake structure at Salem Nuclear Generating Station ("Salem"), a nuclear electricity generating station located on the Delaware River in New Jersey;

WHEREAS, PSEG submitted a renewal application for the Permit on February 1, 2006;

WHEREAS, the Permit was administratively continued pursuant to N.J.A.C. 7:14A-2.8(a) pending final review and action on the renewal application by the NJDEP;

WHEREAS, in July 2007 the federal Environmental Protection Agency ("EPA") suspended the federal regulations governing the design and operation of cooling water intake structures at large existing generating stations, including Salem, pending promulgation of new regulations;

WHEREAS, in the absence of specific regulations implementing Clean Water Act § 316(b), NJDEP is required to use its best professional judgment in developing controls for existing point source facilities with cooling water intake structures, see 40 C.F.R. § 125.90(b); 66 Fed. Reg. 65256 (Dec. 18, 2001);

WHEREAS, in November 2010 the EPA entered into a consent decree to draft and issue new regulations for cooling water intake structures by 2012 that would govern the NJDEP's renewal of the Permit;

WHEREAS, the EPA published draft regulations for cooling water intake structures in April 2011;

WHEREAS, between 2012 and 2014 the EPA was granted four extensions to publish final cooling water intake structure regulations;

WHEREAS, on October 1, 2013, Appellants filed a complaint in lieu of prerogative writs in the Superior Court, Law Division, Mercer County, against Respondents to take action on the Permit renewal application;

WHEREAS, Appellants' action was transferred to the Appellate Division by order dated December 16, 2013, and docketed as A-1908-13;

WHEREAS, the EPA's final cooling water intake structure regulations were published in the Federal Register on August 15, 2014 which become effective 60 days later;

WHEREAS, Appellants and Respondents have agreed that settlement of this action is in the best interest of the parties and in the public interest;

NOW, THEREFORE, without any admission or adjudication of the claims made or violations alleged in the complaint or the appeal, the parties HEREBY AGREE as follows:

1. The NJDEP will complete its review and take action on the PSEG Permit renewal application by issuing a draft renewal permit pursuant to N.J.A.C. 7:14A-15.6, by June 30, 2015.

2. Appellants shall file a motion on consent to stay the proceedings until June 30, 2015 or, if issued before June 30, 2015, the date the draft permit is issued. Respondents consent to and will not oppose Appellants' motion to stay. The motion to stay shall be filed not later than five (5) days after entering into this Agreement. The Parties' consent to this Agreement and all of the commitments and obligations under this Agreement is conditioned on the Court's granting of the Appellants' unopposed motion to stay the proceedings. If for any reason the Court denies the Appellants' motion to stay, the

obligations set forth in this Settlement Agreement are null and void.

3. This Settlement Agreement shall terminate once NJDEP publishes a draft permit for public comment pursuant to Paragraph 1. No later than thirty (30) days from the date that this Agreement terminates, Appellants' will file a notice withdrawing the appeal (a) dismissing with prejudice the portion of the appeal which requests that Respondents issue a draft permit by a date certain and (b) dismissing without prejudice the portion of the appeal which requests that Respondents issue a final permit by a date certain.

4. DISPUTE RESOLUTION - This Settlement Agreement may be modified upon written stipulation between the Parties. In the event that any party wishes to modify the terms of this Settlement Agreement, including the deadlines and actions specified in Paragraph 1, or in the event of a dispute arising out of or concerning this Settlement Agreement, or in the event that any party believes that another party has failed to comply with any term or condition of this Settlement Agreement, the party seeking the modification, raising the dispute, or seeking enforcement shall provide the other parties with written notice of the claim. The Parties agree that they will meet and confer (either telephonically or in person) at the earliest possible time within 30 days of the written notice of the claim in a good

faith effort to resolve the claim before seeking judicial relief.


5. EFFECT OF AGREEMENT - The Parties are entering this Settlement Agreement in order to avoid further litigation on the merits of Appellants' pending lawsuit. Except as expressly provided in this Settlement Agreement, nothing in this Settlement Agreement shall be construed to constitute an admission of any issue of fact, law or liability by any of the Parties. Except as expressly provided in this Settlement Agreement, none of the Parties waives or relinquishes any legal rights, claims or defenses it may have.

6. REPRESENTATIVE AUTHORITY - The undersigned representatives of each party certify that they are fully authorized by the party or parties they represent to enter into this Settlement Agreement and do hereby agree to the terms herein.

7. ENTIRE AGREEMENT - The terms of this Settlement Agreement constitute the Parties' entire agreement concerning the specified terms, and no statement, agreement, or understanding, oral or written, which is not contained herein, shall be recognized or enforced. Except as expressly stated herein, this Settlement Agreement supersedes all prior agreements, negotiations, and discussions between the Parties with respect to the subject matters discussed herein.

SIGNATURE PAGES FOR
SETTLEMENT AGREEMENT

FOR RESPONDENTS,
NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION AND
COMMISSIONER BOB MARTIN



Pilar Patterson, Chief
Bureau of Surface Water Permitting

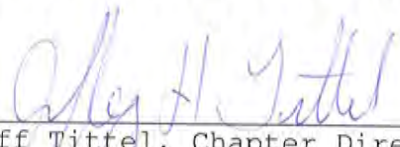
DATE: 11-3-14

FOR APPELLANTS DELAWARE RIVERKEEPER NETWORK AND THE DELAWARE
RIVERKEEPER

Maya K. van Rossum
Maya K. van Rossum, the Delaware Riverkeeper
Delaware Riverkeeper Network

DATE: 5/5/14

FOR APPELLANT SIERRA CLUB



Jeff Tittel, Chapter Director
New Jersey Sierra Club

DATE: 10-31-2014

FOR APPELLANT CLEAN WATER ACTION, d/b/a NEW JERSEY ENVIRONMENTAL
FEDERATION



David Pringle
New Jersey Campaign Director
Clean Water Action

DATE: 11-3-14