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From: "NC-WARN" <NC-WARN@pobox.com>
To: "Bollwerk, Paul" <gpb@nrc.gov>, "Lam, Dr. Peter" <...>
Date: Thu, Dec 21, 2000 3:29 PM
Subject: NRC THWARTS OWN LICENSING BOARD

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NEWS RELEASE Contact: Jim Warren

December 21, 2000
919-490-0747OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

NRC THWARTS OWN LICENSING BOARD,

SERVED DEC 22 2000

GRANTS CP&L WASTE EXPANSION

DURHAM – In a curious move, even by nuclear industry standards, the staff of the Nuclear Regulatory Commission today overruled its own Atomic Safety and Licensing Board (ASLB) by granting approval to a controversial high-level waste expansion by Carolina Power & Light. The ruling allows CP&L to begin using two additional cooling pools at the Shearon Harris Nuclear Plant as soon as it can complete construction and other preparations. Orange County indicated that it would appeal to the full NRC commission to seek a suspension of the approval.

NRC's move astounded observers because the ASLB is ordinarily considered the approval arm of the federal agency, and has allowed a legal challenge by Orange County to proceed based on concerns about increased risks of severe nuclear accidents. Following a Dec. 7th legal session in Raleigh, the ASLB is currently considering whether to allow safety hearings and an environmental impact study, which the County argues are required by federal law. The NRC staff ignored that legal process in granting the license amendment today.

"CP&L stomped its foot, pounded on the table – and got exactly what it wanted," said NC WARN director Jim Warren. NC WARN charged last Monday that CP&L's attorney threatened the ASLB judges on Dec. 7th by warning repeatedly that Congress is looking over their shoulders. "The NRC has again gone the extra mile to protect its industry allies – this time by subverting the actions of its own licensing board!" Critics across the nation have long complained that the NRC and the rules it follows are heavily rigged in the industry's favor.

NC WARN added that CP&L was getting more desperate because it had wanted to begin the project more than a year ago and is running very low on space in the two existing pools at Harris.

Orange County Commission Chair Steve Halkiotis said, "I'm very disappointed but not surprised because of the NRC's past track record and connection to the industry." He added that Orange County had previously approved an appeal to the full NRC board in the event of an adverse decision by the ASLB.

Diane Curran, an attorney representing Orange County, said, "It's outrageous that the NRC did this when an environmental contention is pending before the ASLB. By issuing an approval before the case is resolved, they're thumbing

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their nose at the County and at the process which is supposed to ensure the protection of the public." She said the NRC ruling could prejudice the ASLB's decision regarding the environmental study, because federal doctrine would allow CP&L to claim that, since it's now spending money to complete the pools, it should be allowed to continue.

The NRC's own advisory board recently warned of serious uncertainties regarding storage of the highly irradiated nuclear rods in cooling pools. Experts for Orange County argue that CP&L's plan would substantially increase the risk of a major waste accident; Dr. Gordon Thompson estimates a 1 in 2,000 chance over 30 years, of one class of waste pool accident. Union of Concerned Scientists recently learned that loss of waste pool cooling at two nuclear plants in the U.S. went undetected for 48 hours, with temperatures rising to damaging levels.

Warren added, "This would be entirely unbelievable if we weren't dealing with the NRC. One branch of the agency considering the technical aspects of the expansion, and another branch of pro-industry hacks leapfrogging over the ASLB to do exactly what CP&L wants. More tales from Nuclear Wonderland."

NC WARN
Waste Awareness and Reduction Network
PO Box 61051
Durham, NC 27715-1051
Phone: (919) 490-0747
Fax: (919) 493-6614
Email: NC-WARN@POBOX.COM
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**WARN Waste Awareness and Reduction Network PO Box 61051 Durham, NC
27715-1051 Phone: (919) 490-0747 Fax: (919) 493-6614 Email: NC-
WARN@POBOX.COM Website: <http://www.ncwarn.org>**

From: "NC-WARN" <NC-WARN@pobox.com>
To: <gpb@nrc.gov>
Date: Mon, Dec 18, 2000 1:37 PM
Subject: CP&L PRESSURES NRC

NEWS RELEASE Contact: Jim Warren

December 18, 2000 919-490-0747

GROUP SAYS CP&L PRESSURED JUDGES

Other Developments Amplify Need for Safety Hearings on Nuclear Waste Plan

DURHAM – Environmental group NC WARN charged today that a lawyer for Carolina Power & Light threatened federal judges during legal arguments over plans to double high-level waste stored at the Shearon Harris Nuclear Plant. The group asked U.S. Senator John Edwards and Rep. David Price to look into the offense.

At a December 7th legal hearing in Raleigh, members of the public and media heard John O'Neill, a Washington attorney representing CP&L, twice warn three judges from a Nuclear Regulatory Commission licensing board that Congress will not tolerate delays in such licensing approvals. O'Neill criticized the judges at least twice for allowing Orange County's legal challenge to proceed to the current point, and at different times, told them adamantly that Congress has "given direction to expedite these proceedings."

NC WARN said today that it believes the threats were directed at the judges' jobs, and that such intimidation would never be allowed in any other court, judicial or administrative. Director Jim Warren explained, "When judges are warned repeatedly in loud, blustering tones that Congress is looking over their shoulder – and wants them to terminate legal challenges such as this one – there is no doubt about the intention." Warren said the CP&L attorney was effectively telling the judges to hurry up, ignore the facts and take care of CP&L by closing out the case without safety hearings and an environmental impact study.

O'Neill made the same threat – again twice – in January at a similar legal hearing on phase one of Orange County's challenge. In its subsequent ruling, the NRC licensing board ruled against the County's on that legal phase, despite its earlier decision that the intervention should go to full evidentiary hearings.

In a letter to Edwards and Price, NC WARN asserted that Congress regularly threatens budget cutbacks to make the NRC become even more industry-friendly, including efforts to relax safety requirements at power plants and waste sites and allow radioactive materials to be "recycled" into consumer products. And since the Licensing Board judges are hired through the NRC, there is pressure on them to please the industry.

On the current legal challenge, the licensing board is considering whether to grant the County an evidentiary hearing, where CP&L's technical staff

would have to openly answer concerns of the County's two prominent nuclear safety consultants who warn that CP&L's plan would increase the risk of a severe nuclear accident.

At the Dec. 7th session, Orange County and CP&L traded criticisms of each others' calculations about the chance of a major waste accident. Orange consultant Dr. Gordon Thompson estimates a 1 in 2,000 chance over 30 years of one type of major waste accident at Shearon Harris. CP&L claims the chance is less than that of an Ice Age. But NRC rules prohibited Thompson or CP&L's consultants from speaking at the hearing. Two recent federal studies confirm the potential for waste pool accidents involving truly disastrous consequences. And an NRC advisory panel has expressed serious concerns about risks from waste pools.

Warren added: "CP&L bought a big and expensive analysis from a consulting company which lacked key calculations and the independent 'peer review' CP&L had claimed. They had two dozen 'suits,' plus a bombastic lawyer barking at the NRC judges and trashing Orange's muzzled expert. It was a well calculated show of force, but Orange County fully demonstrated the need for scientific hearings."

Other important developments:

a.. CP&L and the NRC had to reverse their earlier defense of the waste expansion, now admitting that Dr. Thompson is correct that even "spent" fuel up to ten years old will ignite if the cooling pools are partially drained and the waste is exposed to air. For 20 years the NRC insisted this couldn't happen.

a.. The Union of Concerned Scientists recently learned that this year waste pools at two U.S. nuclear plants heated up - unnoticed - for two days, to temperatures where damage to safety systems occurs. The nuclear industry has for many years insisted this simply cannot happen.

a.. In a December 3rd editorial, the president of a New England utility argued seven times that dry cask storage is safer than waste pools. (Orange' s experts and NC WARN have urged CP&L to use dry storage, which would greatly reduce the risk of a catastrophic accident)
NC WARN implored Edwards and Price to help prevent central North Carolina from living under a cloud of uncertainty, with prominent scientists warning about CP&L's plan but prohibited from debating it with the company.

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NC WARN
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PO Box 61051
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**## ----- NC WARN Waste Awareness and
Reduction Network PO Box 61051 Durham, NC 27715-1051 Phone: (919) 490-0747
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
CAROLINA POWER & LIGHT COMPANY) Docket No. 50-400-LA
)
(Shearon Harris Nuclear Power Plant))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LIMITED APPEARANCE STATEMENTS (2) OF NC WARN have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
G. Paul Bollwerk, III, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Thomas D. Murphy
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

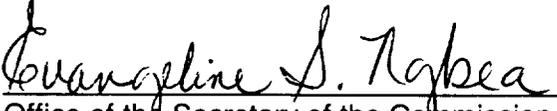
Susan L. Uttal, Esq.
Robert M. Weisman, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Diane Curran, Esq.
Harmon, Curran, Spielberg
& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

William D. Johnson
Vice President and Senior Counsel
Carolina Power & Light Company
P.O. Box 1551
Raleigh, NC 27602

John H. O'Neill, Jr., Esq.
William R. Hollaway, Esq.
Shaw Pittman
2300 N Street, NW
Washington, DC 20037

Docket No. 50-400-LA
LIMITED APPEARANCE
STATEMENTS (2) OF NC WARN


Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 22nd day of December 2000