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**From:** "NC-WARN" <NC-WARN@pobox.com>  
**To:** "Bollwerk, Paul" <gpb@nrc.gov>  
**Date:** Mon, Jan 8, 2001 5:44 PM  
**Subject:** Copied letter

DOCKETED  
USNRC

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Judge Bollwerk,  
I just learned that the paper version of this letter did not get to you  
although you are CC'd.

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Thanks,  
Jim Warren

SERVED JAN - 9 2001

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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  
Website: <http://www.ncwarn.org>

Template = SECY-038

SECY-02

December 18, 2000

Honorable John Edwards  
United States Senate

Subject: **CP&L Pressure on Nuclear Licensing Board**

Dear Senator Edwards,

We are in urgent need of your assistance on two matters having grave implications for public safety.

1) It has become obvious that the NRC's Atomic Safety and Licensing Board operates under pressure from the nuclear power industry, including Carolina Power & Light, which threatens the safety of millions of U.S. citizens. We respectfully request that you inquire into this situation, especially as it pertains to CP&L's proposed expansion of "spent" fuel storage at the Shearon Harris Nuclear Plant in Wake County.

At the December 7<sup>th</sup> ASLB proceeding in Raleigh, *we were appalled to hear CP&L attorney John O'Neill threaten three ASLB judges NRC licensing board by warning twice that Congress expects such licensing proceedings to be expedited.* The message was clear: the ASLB must end Orange County's intervention at the current juncture – without the safety hearings or Environmental Impact Statement (EIS) which the County seeks.

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

While we believe there are honorable judges on the ASLB, their jobs are at stake when the industry flexes its muscles. It is bad enough that NRC technical staff and attorneys consistently coordinate with CP&L in opposition to the County's quest for safety hearings. But when ASLB judges are warned in loud, blustering tones, that Congress wants legal challenges such as Orange County's to be terminated, there can be no doubt about the intention of such a threat.

The industry puts a great amount of pressure on the NRC, via Congress, through threats of budget cutbacks unless the agency becomes even more industry-friendly. Such pressure is a key factor in the current move to relax safety inspections at power plants, to allow "recycled" radioactive materials in consumer products, and to soften restrictions on radiation exposure to the public and industry workers. However, in the current instance, the threats have been blatant, vociferous and repetitious. No similar power play would be allowed in any other court in the United States, judicial or administrative.

Our second request directly relates to the first:

2) We ask that you seek a review of the current regulatory system which has allowed CP&L to block safety hearings in spite of widespread public concern, and calls from yourself and local and state officials for full hearings and an EIS. As you know, for two years CP&L has used the pro-industry rules to deny Orange County a hearing where CP&L would have to openly answer the safety concerns of the County's two nuclear safety consultants. Clearly the regulatory system favors the industry but fails the public.

All this occurs despite increasing evidence of the need for a thorough, open examination of CP&L's proposal:

- Orange consultant Dr. Thompson estimates a 1 in 2,000 chance over 30 years of one type of major waste accident at Shearon Harris. He makes a compelling argument for an alternative to risky waste pools.  
CP&L's O'Neill main line of defense is to try and discredit Dr. Gordon Thompson.
- Both CP&L and the NRC recently reversed their earlier defense of the waste expansion, now admitting that Dr. Thompson is correct that "spent" fuel up to ten years old will ignite if the cooling pools are partially drained and the waste is exposed to air. For years the NRC insisted this couldn't happen.
- Two recent federal studies confirm the potential for waste pool accidents involving truly disastrous consequences. This year, the NRC's own science advisors twice warned of serious uncertainties regarding waste pool storage.
- We just learned that earlier 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.

***Also, on December 3<sup>rd</sup>, the CEO for the New England utility Connecticut Yankee insisted seven times in an editorial that dry cask storage is safer than waste pools.***

If the process goes according to CP&L's wishes, the company will succeed in creating the nation's largest stockpile of nuclear waste without ever having to answer one single question in a formal safety hearing. There is a great deal of frustration building among the public. We have tried hard to work within the restrictive regulatory process, yet we are left feeling cheated by an ineffectual system. We know you share some of these concerns. Thus, we ask that you please find a way to move this process beyond the technicalities, loopholes and legal tricks which allows CP&L to dodge tough questions.

How secure would the regional public feel living in the shadow of this nuclear stockpile for an indefinite period, knowing that honest scientists warned against it but were prevented from openly pursuing their concerns? It is incomprehensible that we should have to accept CP&L's waste expansion without a careful examination of all safety issues – held out in the open.

We appreciate your earlier assistance. At this critical juncture, we urge you to reiterate your call for safety hearings, an EIS, and call for a congressional review of the process. We are making a similar request of Congressman David Price.

Sincerely,

Jim Warren  
Executive Director  
NC WARN

CC: Orange County Board of Commissioners  
ASLB Judge Paul G. Bolwerk

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 STATEMENT 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

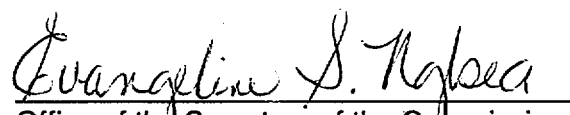
Susan L. Uttal, Esq.  
Robert M. Weisman, Esq.  
Office of the General Counsel  
Mail Stop - O-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

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.  
Douglas J. Rosinski, Esq.  
Shaw Pittman  
2300 N Street, NW  
Washington, DC 20037

Docket No. 50-400-LA  
LIMITED APPEARANCE STATEMENT  
OF NC WARN

  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 9<sup>th</sup> day of January 2001