

**From:** NC WARN <NC-WARN@pobox.com>  
**To:** TWFN\_DO.twf2\_po(FOIA),OWFN\_DO.owf5\_po(CMB,PNT)  
**Date:** Fri, Feb 4, 2000 2:58 PM  
**Subject:** FOIA 99-367 Appeal

North Carolina Waste Awareness & Reduction Network (NC WARN)  
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 4 February 2000

**FOI/PA REQUEST**

**Case No:** 2000-003A  
**Date Rec'd:** 2-4-00  
**Action Off:** Pugh  
**Related Case:** 1999-0367

Via e-mail: \*foia officer\* <foia@nrc.gov>

Dr. William Travers, Executive Director for Operations (EDO)  
 <cmb@nrc.gov> and <pnt@nrc.gov>

Dr. Travers and FOIA staff:

NC WARN hereby appeals each and all of NRC\*s uses of exemption 5 (pre-decisional information) to the Freedom of Information Act in responses received to our FOIA 99-367. Although the cover sheet of the final response thereto is dated 12/29/1999 (possibly 12/28 or 12/23, it\*s very blurred), the actual Appendices H and I were only received by us on 6 January, 2000.

Since NRC has yet to identify what decision(s), if any, the identified documents are said to be pre-decisional to, NC WARN has attempted to infer what such decisions might be.

Concerning Appendix H (denying officer Luis A. Reyes, Regional Administrator, Region II), the document from Joseph B. Brady (1 page) appears to refer to an allegation from Mr. David Lochbaum of the Union of Concerned Scientists. If this were considered pre-decisional to NRC\*s response to that allegation, NC WARN already received what is apparently the entire NRC response to the allegation, in response to FOIA 99-367. Also, the revealed portion of this document refers to \*appropriate pages of the calc[ulation],\* at least some of which were supplied to NC WARN. NC WARN also questions what could be legitimately \*pre-decisional\* in such a forwarding memo. Therefore we request that the five lines omitted be revealed.

Concerning Appendix I (denying officers Luis Reyes, as above, and Samuel J. Collins, Director, NRR), which references both a draft memo of 10 pages from N. Le to J. Shea, undated, re \*Shearon Harris Unit 1 \* Spent Fuel Pool Survey\* and a (presumably later dated) 4/09/96 memo on the same subject from N. Le to J. Shea, also of 10 pages, NC WARN notes that this cannot possibly be pre-decisional to anything related to the CP&L expansion plan, which was never even contemplated at that time (4/1996) according to any information we have. Since, as far as NC WARN is aware, there was no decision being made concerning spent fuel storage at Harris at the time of these memos, which on their face appear to relate to survey plans, some of which have also been made available to NC WARN under FOIA 99-367, we request that both memos be revealed in

their entirety. NC WARN also doubts that all the information in such planning is \*inextricable\* since apparently other information related to the spent fuel pool survey in the mid-1990s has been revealed and may indeed be contained in the above-referenced 10 page documents.

Respectfully submitted

Jim Warren  
Executive Director, NC WARN  
4 February, 2000

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NC WARN )))

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**We Must Stop the Accumulation of Poisons in Our Environment**