

**UNITED STATES OF AMERICA
U.S. NUCLEAR REGULATORY COMMISSION**

BEFORE THE SECRETARY

In the Matter of:
SOUTHERN NUCLEAR OPERATING CO.
License Amendment Application for
Combined License NPF-91
Vogtle Electric Generating Plant Unit 3

Docket No. 52-025-LA-3

December 28, 2020

**REPLY OF THE BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE AND
ITS CHAPTER CONCERNED CITIZENS OF SHELL BLUFF TO ANSWERS OF
NRC STAFF AND SOUTHERN NUCLEAR OPERATING COMPANY
TO MOTION TO REOPEN LAR-20-001**

In accord with 10 C.F.R. § 2.326 and § 2.309, The Blue Ridge Environmental Defense League and its chapter Concerned Citizens of Shell Bluff (“BREDL” or “Petitioner”) submit the following reply to answers provided on December 17, 2020 by NRC Staff (“NRC Answer”) and Southern Nuclear Operating Company (“SNC Answer”) responding to its to motion to reopen and submit amended contention.

BREDL Reply

The NRC Answer claims that BREDL has relied on predecisional material in this matter. This is incorrect. BREDL is relying on material that was contemporaneous with its intervention yet withheld from public scrutiny. This information, which was used by NRC to reach its decision to approve SNC’s license amendment request, was provided to BREDL only after a lengthy FOIA response period. This response period extended well past the time of the Atomic Safety and Licensing Board’s review—including submission

of answers by NRC and SNC, oral argument and ultimate dismissal of BREDL's May 11, 2020 petition to intervene. This predecisional material was, therefore, not provided to the Atomic Safety and Licensing Board.

The NRC Staff acknowledges that the license amendment request was confusing: "When these predecisional documents were generated, the Staff was experiencing a brief period of difficulty understanding information associated with the license amendment request (LAR) that the licensee, Southern Nuclear Operating Company (SNC), had made available for audit. In particular, important information was illegible, not in a useful format, or required clarification from SNC. Over a very short time, the Staff resolved these issues through continued engagement with SNC." NRC Staff Answer at 1

BREDL encountered some of this uncertainty and asked that the LAR be denied, which remains BREDL's principal request. However, rather than rejecting the LAR and requiring resubmittal by the applicant, NRC held meetings with SNC at which material unavailable to BREDL was provided to NRC Staff, material which was critical to informing the decision to issue the license amendment.

NRC approved the LAR based on information that was not made available to BREDL or the ASLB. "On August 4, 2020, prior to the Board's order on BREDL's contentions, NRC Staff approved the LAR after making a no significant hazards determination." SNC Answer at 3.

The ASLB should have rejected the LAR based on what the NRC knew at the time but did not share, and halted construction until SNC reevaluated the structural integrity of the entire Nuclear Island.

Issues Putting NRC in a “bad light”

For more than two decades, BREDL has contested licenses and amendments in Nuclear Regulatory Commission proceedings. Win, lose or draw, it has proffered substantive contentions based on analyses provided by credible experts. Moreover, it has pursued its goals without resorting to rancor or *ad hominem*. Sadly, BREDL’s technical expert in the extant matter, Arnold Gunderson, has not been spared personal attacks.

For example, as revealed in Investigative Reports by the NRC Office of the Inspector General, Mr. Gunderson’s Wikipedia page was accessed over a three-year period from Internet Protocol addresses originating at the Nuclear Regulatory Commission which changed “nuclear expert” to “anti-nuclear campaigner” and “anti-nuclear witness for hire.” Though some might dismiss this as a prank, it was malicious. If the shoe were on the other foot, a Commission “Nuclear Systems Engineer” would become “Pro-nuclear Witness for Hire.” BREDL believes this is reprehensible, yet in a subsequent OIG Report, an NRC senior attorney found no violation of Management Directive 2.7 regarding personal use of information technology. See Attachments.

BREDL requests that the Commission seek a path to raising contentions without becoming contentious.

Conclusion

The Nuclear Regulatory Commission should have rejected SNC’s license amendment request. Our principal interests are significant safety issues, the health and safety of our members living near the plant and the general public. We hereby request that the Commission reopen LAR-20-001.

Respectfully submitted

A handwritten signature in black ink that reads "Louis A. Zeller". The signature is written in a cursive style and is followed by a horizontal line.

Louis A. Zeller, Executive Director
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ATTACHMENTS

NRC Office of the Inspector General

Agent's Investigative Reports

Case File C 16 002

AGENT'S INVESTIGATIVE REPORT	CASE FILE NUMBER C 16 002
NRC Office of the Inspector General	PAGE 1 OF 2 PAGE(S)
DETAILS	
Memorandum to File	
SUBJECT: Review of Mr. Arnold "Arnie" GUNDERSEN's Wikipedia page.	
<p>On 21 October 2015, Special Agent (SA) (b)(7)(C) reviewed Mr. Arnold "Arnie" GUNDERSEN's Wikipedia page at https://en.wikipedia.org/wiki/Arnold_Gundersen. The purpose of the review was to determine if any edits to the page were made by Internet Protocol (IP) addresses originating from the U.S. Nuclear Regulatory Commission (NRC) network and the content of the edits.</p> <p>Mr. GUNDERSEN's Wikipedia page contained a lead section which gave a brief overview of him. It also contained sections that pertained to his background, career, publication, and views along with several other sections. The page had a <u>View history</u> link that led to a revision history list dating back to 22 September 2010. The list contained times and dates of the revisions that linked to actual edits made. It also contained the usernames or IP addresses that made the edits. The list revealed two IP addresses A) (b)(7)(E) from U.S. NRC network. IP (b)(7)(E) made four edits and IP (b)(7)(E) made three edits. The following are the IP addresses, times and dates, and edits that originated from U.S. NRC network:</p> <p>A) IP (b)(7)(E)</p> <ol style="list-style-type: none"> 1) 1 May 2014 at 1412 hours, added ", anti-nuclear campaigner," to lead section, edit was removed by username Johnfos, 29 June 2014 at 0655 hours. 2) 29 July 2013 at 1900 hours, added "anti-nuclear campaigner" to lead section, edit was removed by username Petrarchan, 31 July 2013 at 0605 hours. 3) 17 July 2013 at 1728 hours, added "an anti-nuclear campaigner" to lead section, edit was removed by username Petrarchan, 20 July 2013 at 0052 hours. 4) 29 March 2013 at 1708 hours, added "Anti-nuclear campaigner" to lead section, edit was removed by username Johnfos, 4 April 2013 at 1904 hours. <p>B) IP (b)(7)(E)</p> <ol style="list-style-type: none"> 1) 21 October 2013 at 1321 hours, added ", anti-nuclear witness-for-hire" to lead section, edit was removed by username Petrarchan, 23 October 2013 at 2258 hours. 2) 3 May 2012 at 1116 hours, added "and an anti-nuclear campaigner" to lead section, edit was removed by username (b)(7)(C) 3 May 2012 at 1926 hours. 	

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AGENT'S INVESTIGATIVE REPORT	CASE FILE NUMBER C 16 002
NRC Office of the Inspector General	PAGE 2 OF 2 PAGE(S)
<p>3) 2 May 2012 at 1359 hours, added "Anti-nuclear campaigner" to lead section, edit was removed by username (b)(7)(C), 2 May 2012 at 1459 hours.</p> <p>The revision history list also contained three other IP addresses from Michigan, Philadelphia, and Canada making similar edits to Mr. GUNDERSEN's Wikipedia page. A (b)(7)(E) request form was submitted on 22 October 2015 to further investigate the IP addresses that originated from U.S. NRC network.</p>	
AGENT NAME \ SIGNATURE (b)(7)(C)	DATE 23 October 2015
TE (b)(7)(C)	DATE 10/22/15

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AGENT'S INVESTIGATIVE REPORT	CASE FILE NUMBER C 16 002
NRC Office of the Inspector General	PAGE 1 OF 1 PAGES

DETAILS

Memorandum of Interview

SUBJECT: Interview of (b)(7)(C)

On April 7, 2016 in Rockville, MD, (b)(7)(C) for Administration, General Counsel for Hearings, Enforcement, and Administration, Office of the General Counsel (OGC), was interviewed by Special Agents (SA) (b)(7)(C) and (b)(7)(C) of the Office of the Inspector General (OIG), Nuclear Regulatory Commission (NRC). (b)(7)(C) provided substantially the following:

(b)(7)(C) told OIG that, as a senior attorney, she felt no violation of Management Directive (MD) 2.7, the NRC Interim Guidance on Social Media, or 5 CFR 2635.101 was committed in the (b)(7)(C) situation where (b)(7)(C) Senior Technical Adviser, Office of Nuclear Reactor Regulation (NRR) modified the Wikipedia description for Arnold GUNDERSEN from "nuclear expert" to "anti-nuclear campaigner" on multiple occasions. She distinguished "slander" (verbal) from "libel" (written) and stated her view that neither term fit this fact situation. She said there was nothing intrinsically "bad" about changing "nuclear expert" to "anti-nuclear campaigner" and there was nothing "actionable" with it. It was a "characterization" not a false or inaccurate statement. It would also not fit the description "abusive." She stated that NRC employees do have limited speech rights and that (b)(7)(C) was expressing his opinion and the view of an expert, but did not attribute his description to an official view of the NRC. Since it was established that (b)(7)(C) did not have any apparent "ulterior motives" or any "vendetta" against GUNDERSEN based on any previous associations, the changing of the Wikipedia page did not put the NRC in a "bad light." (b)(7)(C) told OIG that she assumes that every NRC employee occasionally uses the internet while at work for purposes not fully work related. She said the NRC would not typically take any action on such small scale computer usage absent a negative effect on job performance or an unusually high resource expenditure (e.g., significant amounts of non-work-related video streaming).

AGENT NAME / SIGNATURE (b)(7) (b)(7)(C)	DATE 11 April 2016
TEAM LEADER NAME / SIGNATURE (b)(7) [Signature]	DATE 4/14/16

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CERTIFICATE OF SERVICE

I hereby certify that the

**REPLY OF THE BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE AND
ITS CHAPTER CONCERNED CITIZENS OF SHELL BLUFF TO ANSWERS OF
NRC STAFF AND SOUTHERN NUCLEAR OPERATING COMPANY
TO MOTION TO REOPEN LAR-20-001**

has been filed through the Electronic Information Exchange system
this 28th day of December 2020.



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