



**NUCLEAR WATCH
SOUTH**

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March 13, 2018

Georgia Board of Professional Engineers & Land Surveyors

The Office of the Secretary of State

237 Coliseum Drive

Macon, Georgia 31217

RE: NUCLEAR WATCH SOUTH'S THIRD REQUEST FOR INVESTIGATION BY
THE GEORGIA PROFESSIONAL LICENSING AND ENGINEERING BOARDS;
RESPONSE TO NUCLEAR REGULATORY COMMISSION (NRC) COMMENTS ON
UNLICENSED ENGINEER ACTIVITY; AND NOTICE OF RECENT NRC
VIOLATIONS AT VOGTLE

VIA EMAIL AND U.S.P.S. MAIL

Dear Chairman Dan Davis, PE, and Members of the Georgia State Board of Professional Engineers and Land Surveyors:

Petitioner Nuclear Watch South submits this third response in follow-up to its December 12, 2017, request for investigation and its February 9, 2018, renewed request for investigation. This response is submitted in reply to [recent letters from Darren Mickler III](#) on behalf of this board dated February 13, 2018, and from [Georgia Power dated February 15, 2018](#). Nuclear Watch South also wishes to provide notice of two recent and relevant developments to inform the Board in reaching its decision about oversight of alleged engineering malpractice at Vogtle 3 & 4 and lapsed engineering licenses of Southern Nuclear Company and Southern Engineering.

First, Nuclear Watch South provides [Nuclear Regulatory Commission's memo dated February 15, 2018](#) to the [National Society of Professional Engineers](#) regarding alleged engineering malpractice at the Vogtle 3 and 4 "twin" project V.C. Summer.¹

Second, Nuclear Watch South is providing this board notice of the February 21, 2018 announcement by NRC of its intent to levy a \$145,000 fine upon Southern Nuclear Company for "inaccurate documentation" and "deliberate misconduct" by Southern Nuclear Company employees at the Vogtle site.²

For these reasons, Nuclear Watch South hereby requests for the third time that this Board take action and open an investigation into the matters of (1) expired engineering licenses and (2) alleged engineering malpractice at Vogtle 3 & 4. In so doing, this Board should (1) rescind its earlier order from Mr. Mickler and begin a Board-led investigation and (2) allow for public comment by placing these items on its May 8, 2018 open session meeting agenda.

¹ The NRC memo was obtained by Dale Russell, Atlanta's Fox 5 News I-Team Investigates and forwarded to Nuclear Watch South on February 19, 2018.

² "NRC Proposes \$145,000 Civil Penalty for Violations at Vogtle Nuclear Plant," Nuclear Regulatory Commission, February 21, 2018. Available online at <https://www.nrc.gov/reading-rm/doc-collections/news/2018/18-002.ii.pdf>.

This request incorporates by reference Nuclear Watch South's previous request correspondence.

I. Southern Nuclear Company and Southern Company Engineering Continue to Hold Lapsed Engineering Licenses and are not Exempt from Oversight from this Board

Southern Nuclear Company, Southern Nuclear Operating Company, and Southern Company Engineering and Generation Services all continue to hold lapsed engineering licenses. See Figs. 1 and 2. Yet, these entities are conducting engineering activities at Plant Vogtle, with Southern Nuclear Company currently named Project Manager, responsible for oversight of the entire design and construction at the site.

Full Name	License Number	Profession	License Type	License Status	City	State	
Southern Nuclear Company	PEF003372	Engineers & Land Surveyors	Engineer Firm	Lapsed	Waynesboro	GA	Submit Complaint
Southern Nuclear Operating Co	INSC001029	Priv Detective & Sec. Agency	Company - In-House Security	Lapsed	Birmingham	AL	Submit Complaint
1							

Fig. 1. February 24, 2018.

Licensee Information

Name: Southern Company-Engineering & Generation Svcs	Owner:
Address: 241 Ralph McGill Blvd, N.E. Bin # 10160, Attn: James F. Goodwin Atlanta GA 30308	

Primary Source License Information

Lic #: PEF003472	Profession: Engineers & Land Surveyors	Type: Engineer Firm
Secondary:	Method: Application	Status: Lapsed
Issued: 4/11/2000	Expires: 6/30/2002	Last Renewal Date: 4/11/2000

Fig. 2. February 24, 2018.

In defense of these egregious procedural violations, Georgia Power provides no explanation for the lapsed licenses, only the defense that they are not subject to inquiry because of an alleged statutory exemption, O.C.G.A. § 43-13-29(d).³

³ O.C.G.A. § 43-13-29(d) This chapter shall not be construed to prevent or affect the practice of professional engineering and land surveying with respect to utility facilities by any public utility subject to regulation by the Public Service Commission, the Federal Communications Commission, the Federal Power Commission, or like regulatory agencies, including its parents, affiliates, or subsidiaries; or by the officers and full-time permanent employees of any such public utility, including its parents, affiliates, or subsidiaries, except where such practice involves property lines of adjoining property owners, provided that this exception does not extend to any professional engineer or land surveyor engaged in the practice of professional engineering or

This Board should reject Georgia Power's argument and proceed with investigation for two reasons. First, neither Southern Nuclear Company nor Southern Company Engineering are a public utility as required for the exemption to apply, and second, the exemption “does not extend to any professional engineer or land surveyor engaged in the practice of professional engineering or land surveying whose compensation is based in whole or in part on a fee.” OCGA (d). Because it is reasonable to expect that the licensee, i.e., Southern Nuclear, is working at the Vogtle site “in whole or in part on a fee,” the exception does not apply and the Board must investigate.

A. Neither Southern Nuclear Company nor Southern Company Engineering are a public utility and thus, they are not exempt from Board oversight.

As the members of this Board are likely aware, utilities that serve consumers are one of two types: public or private. Public utilities are described as publicly owned utilities (POUs) while private utilities are described as investor owned utilities (IOUs). The exemption in (d) applies to *public* utilities. In Georgia an electric municipal corporation (EMC) is a public utility. Although many of Georgia's EMCs are co-owners of Vogtle, they are not engaged in performing engineering services at the Vogtle site. Unfortunately for Georgia Power, neither Southern Nuclear Company nor Southern Company Engineering are a public utility nor are they regulated by the PSC. The exemption does not apply and the Board should investigate.

B. It is reasonable to expect that Southern Company and Southern Nuclear are working at the Vogtle site “in whole or in part on a fee,” such that the exception does not apply and the Board must investigate.

The exemption “does not extend to any professional engineer or land surveyor engaged in the practice of professional engineering or land surveying whose compensation is based in whole or in part on a fee.” OCGA (d). Because it is reasonable to expect that lead contractor at the Vogtle site is working “in whole or in part on a fee,” the exception does not apply and the Board must investigate.

Finally, Nuclear Watch South is alleging that *nonprofessionals* are practicing engineering at Vogtle 3 & 4. Section (d) only exempts professional engineering.⁴ The Board must investigate.

II. This Board and Southern Company / Southern Nuclear Company fail to address allegations of engineering malpractice at Vogtle 3 & 4 through their failure to demonstrate licensed professional engineering review for all blueprints used in construction at the Plant Vogtle site.

land surveying whose compensation is based in whole or in part on a fee or to any engineering services performed by the above-referenced utility companies not directly connected with work on their facilities.

⁴ To be clear, Nuclear Watch South is not challenging individual engineering licenses but is challenging Southern Nuclear and Southern Company for practicing engineering in Georgia without a valid license as required by O.C.G.A. §43-15-24(a) which states in pertinent part: “It shall be unlawful for . . . any private or commercial entity to engage in the construction of any work or structures involving professional engineering which by the nature of their function or existence could adversely affect or jeopardize the health, safety, or welfare of the public unless the plans and specifications have been prepared under the direct supervision or review of and bear the seal of, and the construction is executed under the direct supervision of or review by, a registered professional engineer or architect.”

This Board has failed altogether to respond to Nuclear Watch South's concern with potential malpractice from unlicensed engineering activities. Responses from both Georgia Power and the NRC concur that unlicensed personnel are practicing engineering at the Vogtle 3 & 4 construction site. Georgia Power response, 1/9/18, p. 2 and NRC memo, p.2. As noted in the previous section, the State erroneously claims to lack authority over practitioners at Vogtle 3 & 4, while respondent Georgia Power / Southern Company / Southern Nuclear Company points to Federal supremacy and the Nuclear Regulatory Commission (NRC) as holding authority with respect to engineering practices at Vogtle 3 & 4.

As shown in the next section, the NRC has limited jurisdiction and oversight with respect to aspects of construction that are regulated by the State of Georgia and enforced through this board. The State of Georgia has more than 20,000 licensed professional engineers whom this board serves and regulates. It is a disservice not only to the people of the State of Georgia, but to your own membership to turn a blind eye to engineering malpractice which is causing cost overruns and delays, and may possibly be creating safety problems, at the largest construction project in Georgia history.

III. Nuclear Regulatory Commission memo with regard to engineering malpractice allegations at V.C. Summer (now cancelled) in South Carolina is vague and lacks specificity with respect to its so-called review of licensed professional engineer concerns.

The NRC has not responded directly to concerns in Georgia, but responded on February 15, 2018, to concerns raised by a professional engineer at the Summer 2 & 3 construction site in South Carolina. The memo was obtained and given to Nuclear Watch South by a TV news reporter. It is attached as Exhibit 1.

In its memo the NRC reinforces the position of other parties that nonprofessionals are involved in the design of Vogtle 3 & 4. It states that professional engineers sign off on completed work via the ITAAC (Inspections, Tests, Analyses, and Acceptance Criteria) process and via required ASME project closure documents.

Nuclear Watch South is not satisfied that capturing work already performed with professional engineering review is sufficient in light of the glaring work stoppages, rework, delays and cost overruns with respect not only to activities on the Vogtle 3 & 4 construction site, but also with respect to problems in procuring components that meet project specifications.

A. The NRC memo is vague and inconclusive with respect to practices at Vogtle 3 & 4 in Georgia.

In its February 15, 2018 response to the National Society of Professional Engineers, the NRC states (without specificity) that it reviewed several items:

In order to evaluate the concern, the NRC staff (1) evaluated the pertinent regulations; (2) reviewed the associated Post and Courier news article, the letter from the National Society of Professional Engineers (NSPEs), and the Westinghouse Electric Company LLC's (WEC's) legal opinion on the use of Registered Professional Engineers (RPEs); (3)

reviewed specific drawings that the reporter of the news article believed required a RPE's approval; (4) compiled a list of American Society of Mechanical Engineers (ASME) Code requirements specifying RPE review of design reports and design specifications; (5) reviewed Regional and Vendor inspection reports associated with design reports and design specifications; (6) interviewed a sample of inspectors on the practice of ensuring whether a design report or design specification has been approved by a RPE; (7) reviewed excerpts from the State of South Carolina's requirements regarding a utility's use of RPEs; and (8) reviewed NRC guidance in inspection procedures (IPs) to determine if review of RPE documentation approval and personnel qualification are adequately addressed. NRC Memo, p. 1.

Nuclear Watch South notes that the NRC does not say which regulations it evaluated, nor which drawings, which inspection reports, anything about the "sample of inspectors," which state requirements, nor what NRC guidance provide the basis for its three-page dismissal of potentially dangerous practices at the nuclear construction site in South Carolina. Indeed, [Southern Alliance for Clean Energy \(SACE\) recently filed a Freedom of Information Act \(FOIA\) Request](#) with the NRC on February 23, 2018, seeking complete information about the agency's review.

B. NRC requirements are "after the fact" and subject to NRC standards and not meant to satisfy State of Georgia standards for engineering practice.

The NRC memo states: "Regional and Vendor inspectors only look for RPE approval when required to do so by applicable ASME Code requirements, but normally do not document it in an inspection report *unless an associated issue is identified. The associated Regional and Vendor related inspection procedures do not specifically require the NRC inspector to identify whether a design report or design specification has been approved by a RPE.*" NRC memo, p. 2 [emphasis added]

The NRC admits that it only provides oversight, after the fact, when an issue is raised. The previous passage, further, contains this telling footnote acknowledging that there is an engineering review gap: "The NRC staff is currently evaluating the value of adding a specific step in NRC inspection procedure(s) that ensures a RPE has appropriately approved the document (if required by the applicable ASME Code) when inspectors are reviewing design reports and design specification documents." NRC Memo, footnote 2, p. 2.

C. NRC does not require all documents to have Registered Professional Engineer approval. NRC only reviews for safety concerns, not for sound business practice nor State of Georgia standards of engineering practice.

The NRC memo states that "the NRC staff concluded that not all documents need a RPE's approval." NRC memo, p. 2. It is up to the Board to investigate to see whether State of Georgia regulations are being met by this Federal practice.

The NRC memo further states, in response to allegations in South Carolina that the project failed because of the cost overruns and delays resulting from the practice of not requiring RPE review that "NRC's construction inspection activities are . . . focused on ensuring compliance with NRC requirements. If those requirements are met, *the determination of whether to proceed with*

construction of a project, and the schedule for doing so, are ultimately business decisions for the licensee.” NRC memo, p. 3 [emphasis added]. Clearly, the NRC’s role is limited to public safety concerns and bears no relation to the economic burden the poorly managed construction project is having on the people of Georgia.

The NRC’s practice of “locking the barn door after the horse gets out” is less troubling with respect to the now-cancelled Summer project than is the lead contractor's, formerly Westinghouse and now the unlicensed Southern Nuclear Company, reliance upon this regulatory philosophy at Vogtle 3 & 4 where the lack of professional engineering at the design phase has led not only to economic failures as evidenced by the grossly overbudget, behind-schedule nature of the project, but to potentially even more serious safety gaps at the nuclear facility which place Georgians at risk of harmful environmental and health consequences.

It is up to the Board to investigate and enforce State of Georgia engineering regulations at Vogtle 3 & 4.

D. NRC oversight is limited and inadequate to ensure State of Georgia engineering standards are being met.

The NRC memo asserts certain limits to its oversight: “‘The program shall provide for indoctrination and training of personnel performing activities affecting quality *as necessary to assure that suitable proficiency is achieved and maintained.*’ This regulation would apply to engineers involved in the development of the AP1000 nuclear power plant safety-related design activities. The NRC’s inspectors routinely assess the training and qualification of engineers.” NRC memo, p. 1.

The NRC only reviews engineering practices at Vogtle 3 & 4 in response to specific allegations according to its agency practice. It is the job of this Board to oversee the integrity of the engineering profession’s practices in the State of Georgia. Currently, an inexperienced entity, i.e., Southern Nuclear Company, with lapsed license is building a risky mega-project with questionable oversight processes and using nonlicensed professionals to produce design drawings. This Board should investigate.

IV. On February 21, 2018, NRC announced its intent to fine Southern Nuclear Company \$145,000 for filing fake inspections at Vogtle; this Board has reason and authority to investigate the engineering oversight practices at Vogtle and the lapsed engineering license of Southern Nuclear Company.

The NRC announced in a February 21, 2018 [statement](#) its intent to impose a \$145,000 fine on Southern Nuclear Company for employees who failed to complete required checks on equipment and plant conditions at Vogtle and subsequently provided inaccurate documentation indicating that they had done so. The NRC's letter to the Southern Nuclear said the faked inspections were the result of “**deliberate misconduct**” of Southern Nuclear Company employees at the site which “**intentionally precluded**” the safety and regulatory oversight provided by NRC at the Plant Vogtle site. [NRC Letter to Darin Myers, Southern Nuclear Operating Company, EA-17-166, February 20, 2018](#). p. 2 Attached as Exhibit 2.

The NRC investigation completed in August 2017 **found at least 13 system operators failed to complete their rounds as required by plant procedures, but entered data into an electronic log indicating that they had.**

The NRC on February 21, 2018 is succinct in stating: "The NRC does not license system operators, yet they provide an important function." The letter from the NRC to the company states, "Outside rounds are conducted for a variety of reasons, including the early identification, trending, and correction of degraded, abnormal, or undesirable plant conditions. In this case, however, this vital function was intentionally precluded by the deliberate misconduct of at least 13 SOs over an extended period of time." NRC Letter, p. 2.

The Severity Level III violation was particularly concerning because "SNC management was unaware that multiple SOs engaged in deliberate misconduct over at least several months ... failed to ensure that SOs fully embraced a culture of commitment to procedural compliance with trustworthiness and integrity." NRC Letter, p. 2.

This board must investigate engineering practices by Southern Nuclear Company, and previous contractor Westinghouse, with respect to construction at Plant Vogtle 3 & 4.

V. Conclusion

For these reasons, Nuclear Watch South again requests this Board to address the engineering issues at Vogtle 3 & 4 by undertaking an investigation into (1) the lapsed engineering licenses of Southern Company and Southern Nuclear and (2) the alleged engineering malpractice concerning lack of professional engineer reviews at Vogtle 3 & 4. Nuclear Watch South additionally requests this Board place the item of "Southern Nuclear Company Lapsed Engineering License and Alleged Engineering Malpractice at Vogtle 3 & 4" on its May 8, 2018, Open Session Agenda and allow for public comment to be read and delivered at that time.

Respectfully, Nuclear Watch South requests a formal response from the Board Chair by March 27, 2018, two weeks from the date of this request.

Submitted this 13th day of March, 2018

—— signed original ——

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