

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Southern Nuclear Operating Company
Vogtle Electric Generating Plant, Unit 3

Docket Number: 52-025-LA-3

ASLBP Number: 20-967-03-LA-BD01

Location: teleconference

Date: Wednesday, July 1, 2020

Work Order No.: NRC-0946

Pages 1-95

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

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HEARING

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In the Matter of:	:	
SOUTHERN NUCLEAR OPERATING	:	Docket No.
COMPANY, INC.	:	52-025-LA-3
	:	
(Vogtle Electric	:	ASLBP No.
Generating Plant, Unit 3)	:	20-967-03-LA-BD01
	:	

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Wednesday, July 1, 2020

Teleconference

BEFORE:

G. PAUL BOLLWERK, III, Chair

DR. SUE H. ABREU, Administrative Judge

DR. GARY S. ARNOLD, Administrative Judge

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P R O C E E D I N G S

10:02 a.m.

JUDGE BOLLWERK: Good morning, everyone.

Today, we are here to conduct an initial pre-hearing conference in this proceeding in which Applicant, Southern Nuclear Operating Company Incorporated requests an amendment and an associated exemption for its existing 10 Code of Federal Regulations, or CFR, Part 52, combined license or COL, to construct and operate the Vogtle Electric Generating Plan Unit 3.

Vogtle 3, one of a pair of Advanced Passive-1000, or AP1000, pressurized water reactor units being constructed at Southern's existing Vogtle facility in Burke County, Georgia was issued a COL by the NRC in February 2012. The requested license amendment concerns changes to the Vogtle 3 COL Appendix C, inspections, tests, analyses, and acceptance criteria, or ITAAC, and plant-specific Tier 1 information and the corresponding Tier 2* and Tier 2 information in the Vogtle 3 updated final safety analysis report, or US -- sorry, UFSAR.

Specifically, Southern asked to modify the north/south minimum seismic gap requirements above grade between the nuclear island and the annex building west of column line 1, or I -- I'm not sure,

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1 we'll have to clarify whether that's a one or an I --
2 from elevation 141 feet through 154 feet to
3 accommodate as-built localized non-conformances in the
4 annex building south wall. Further, because this
5 proposed change requires a departure from Tier 1
6 information into generic AP1000 design control
7 document, or DCD, associated with the AP1000 certified
8 design being used to construct the facility, Southern
9 also has requested an exemption from the requirements
10 of the generic DCD Tier 1 information in accordance
11 with Title 10 of the Code of Federal Regulations
12 Section 52.63(b)(1).

13 In response to a March 10, 2020 Federal
14 Register notice of an opportunity -- I'm sorry --
15 Federal Register hearing opportunity notice published
16 in Volume 83 of the Federal Register at page 13,944,
17 on May 11, 2020, Petitioners, Blue Ridge Environmental
18 Defense League and its chapter, Concerned Citizens of
19 Shell Bluff collectively referred to as BREDL,
20 submitted a hearing request that included two
21 contentions challenging the Southern license amendment
22 request. The answers submitted on June 4th and June
23 5th, 2020 respectively, Nuclear Regulatory Commission
24 staff and Southern have sought for denial of BREDL's
25 intervention petition, asserting BREDL lacks standing

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1 to intervene and/or has failed to provide an
2 admissible contention. This pre-hearing conference
3 has been convened to conduct an oral argument that
4 will allow the participants to present their positions
5 regarding and respond to Board questions concerning
6 these contested matters.

7 Before we begin the argument, however, I'd
8 like to introduce the Board members and have the
9 representatives of the participants identify
10 themselves for the record. Judge Sue Abreu is a
11 physician with a specialty in nuclear medicine and is
12 also a lawyer. Judge Gary Arnold is a nuclear
13 engineer. My name is Paul Bollwerk. I'm an attorney
14 and the Chairman of this licensing board.

15 We're all participating by telephone from
16 different locations as is our law clerk, Taylor
17 Mayhall. At this point, I'd like to have the counsel
18 representatives for the various parties identify
19 themselves for the record. Why don't we start with
20 Applicant, Southern, then move to the NRC staff, and
21 finally, BREDL. And so we can have some understanding
22 of your circumstances for logistical purposes, I'd
23 also appreciate if the participants would indicate
24 whether their representatives are joining us by
25 telephone from a common location or are, as are the

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1 members of the Board, in different locations. So
2 perhaps we could start with counsel for Southern.

3 (No audible response.)

4 JUDGE BOLLWERK: And you may be muted.
5 We're not hearing anything.

6 MR. BLANTON: I'm sorry. Can you hear me
7 now?

8 JUDGE BOLLWERK: Yes, I can. Thank you.

9 MR. BLANTON: We have too many mute
10 buttons in this room, Judge. Judge Bollwerk, good
11 morning. Stan Blanton for Southern Nuclear Operating
12 Company. I have with me here Peter LeJeune, and we're
13 in a conference room with speakerphones. So we're
14 here together.

15 JUDGE BOLLWERK: All right. Thank you
16 very much. The NRC staff, please.

17 MS. EZELL: Good morning. Julie Ezell for
18 the NRC staff and my colleague, Michael Spencer, as
19 well. We are in different locations.

20 JUDGE BOLLWERK: All right. Thank you
21 very much. And then the representatives for the Blue
22 Ridge Environmental Defense League, BREDL?

23 MR. ZELLER: Yes. Good morning, Chairman
24 Bollwerk. This is Lou Zeller and the principle
25 speaker and the representative of the Blue Ridge

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1 Environmental Defense League. I'm also executive
2 director. Briefly on the line in the virtual
3 courtroom are our technical expert, Arnold Gundersen.
4 At another location, I have Reverend Charles Utley.
5 And at another location, I have Reverend Claude
6 Howard.

7 JUDGE BOLLWERK: All right. Thank you
8 very much. I would like to note that prior to
9 beginning this call, I asked all the participants'
10 representatives to try to remember as they start to
11 speak to identify themselves so that it will be clear
12 to the court reporter who's speaking.

13 Also, as the participants' representatives
14 are aware, we're monitoring the speaker lines in an
15 effort to see if anyone drops off unexpectedly so we
16 can take steps to try to ensure that we don't move
17 forward with the argument until they're able to
18 reconnect. If, however, any of our eight participant
19 representatives with speaker lines should decide to
20 leave this conference call before it's concluded, we
21 would ask that they inform us before dropping off so
22 we can know they're leaving the teleconference
23 voluntarily rather than because they were
24 disconnected.

25 Also, we spoke briefly about the need to

1 mute your phone if you are not speaking. It does
2 help. That will avoid the problems with papers being
3 moved around and someone on the record or a cell phone
4 or something else ringing in the background. So we
5 would, again, ask you that you please try to make an
6 effort to mute your phone. That's generally a button
7 with a microphone on it or something like it on your
8 cell phone or if you're using a Polycom of some kind.

9 Additionally regarding telephone
10 connectivity, we made available to the participants
11 and via the NRC's website and an agency press release
12 information on how members of the public could access
13 this conference by telephone on a listen-only basis.
14 We hope that all the members of the public or others
15 who wish to listen to this conference have been able
16 to access the bridge line this morning. I would
17 observe as well that a transcript of this conference
18 will be prepared and should be available in the NRC's
19 electronic hearing docket by next week.

20 As I mentioned earlier, the subject of
21 today's oral argument will be whether BREDL has shown
22 it has standing to intervene in this proceeding and
23 whether either or both of its two contentions, one of
24 which seeks revocation of Southern's Vogtle 3 COL for
25 alleged material false statements and the other of

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1 which claims that Vogtle 3 basemat foundation and
2 construction factors create an unacceptable
3 operational risk, public health and safety, frame an
4 admissible issue statement appropriate for an
5 evidentiary hearing that would be held at a later
6 time. We also may discuss a BREDL claim that its
7 review and analysis of the Southern license member
8 request has been improperly hindered by a lack of
9 access to documents provided to the NRC staff for
10 review by Southern.

11 As to the process that we will follow for
12 today's argument, as we outlined in our June 8, 2020
13 issuance, each participant's self designated primary
14 representative has been allotted a period of time
15 within which to present its position regarding these
16 matters. We will hear first from BREDL which has been
17 given a total of 30 minutes of which it may reserve up
18 to 10 minutes for a rebuttal presentation following
19 the Southern and staff presentations. Southern and
20 the staff, who will be heard from in that order, have
21 each been allotted 20 minutes to present their
22 arguments.

23 And I would note that Board members may
24 interpose questions during the participant's
25 presentation or wait until all the participants'

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1 representation -- presentations, excuse me, are
2 concluded. We also recognize that our questions and
3 participants' answer may consume a portion of the
4 participants' argument time, and we'll take that into
5 the account in enforcing the time limitations I
6 mentioned previously.

7 Finally, I would observe that this matter
8 has been fully briefed. We've read the participants'
9 pleadings. So, as we indicated in our June 8th order,
10 we hope the participants will focus on identifying the
11 principle points in controversy and the information
12 that supports or rebuts their legal and/or factual
13 claims regarding those matters.

14 And as we also noted there, because this
15 argument is not an evidentiary hearing, the
16 participants should not attempt to introduce evidence
17 during the argument. Hopefully, this entire
18 proceeding will not go much beyond an hour. But it
19 looks as if we're going -- if that is going to be the
20 case, we may take a short break and then resume. All
21 that being said, before we begin with BREDL's initial
22 presentation, I wanted to ask counsel for Southern a
23 background question. Namely, what is Southern's
24 currently planned schedules for fuel loading and
25 operation for Vogtle 3?

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1 MR. BLANTON: Your Honor, the current date
2 on the schedule is November 23 of this year. I will
3 say that because of the issues around the coronavirus,
4 the schedule is being reviewed currently. And that
5 fuel load date is one of the milestones that's under
6 review, so it could change.

7 JUDGE BOLLWERK: And what about actual
8 operation?

9 MR. BLANTON: Actual operation, our
10 currently regulatory required date under the State
11 Public Service Commission is November of 2021 for Unit
12 3 which is what this amendment -- Unit 3, all this
13 amendment involves. I think the working schedule has
14 attempted to build a few months of margin into that.
15 But that, again, is under review right now.

16 JUDGE BOLLWERK: All right. Thank you
17 very much. Appreciate the information. And now let's
18 go ahead and turn to Mr. Zeller for the initial
19 presentation. And Mr. Zeller, I'd like to ask you how
20 much time you wish to reserve for rebuttal.

21 MR. ZELLER: This is Lou Zeller. Yes,
22 thank you, Judge Bollwerk. I would like to reserve
23 ten minutes for rebuttal.

24 JUDGE BOLLWERK: All right, very good,
25 sir. Then you can begin your initial presentation.

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1 MR. ZELLER: Very good. Thank you. This
2 is Lou Zeller, and good morning to Dr. Abreu, Dr.
3 Arnold, and Mr. Chairman. Thank you for the
4 opportunity to present our petition and to intervene
5 and request for a hearing. The issues for the panel
6 today center on physical changes in the nuclear island
7 of Plant Vogtle's Unit 3 still under construction.
8 Southern Nuclear Operating Company and NRC staff claim
9 it's just a minor construction flaw. But in reality,
10 the measured change in the plant's nuclear island
11 points to fundamental problems in the foundation.

12 With your permission, I will address, in
13 order, the questions related to standing, expert
14 qualifications, and contention. Number one, standing
15 should be granted. Residents of Shell Bluff, the
16 community surrounding Plant Vogtle on the Georgia side
17 of the Savannah River would be those placed most at
18 risk from a seismic accident causing radioactive
19 releases.

20 SNC opposes standing in this matter, but
21 the risk is there nevertheless. The level of risk
22 hinges on how well buildings in and around the nuclear
23 island are prevented from impacting one another during
24 a safe shutdown earthquake. Southern is treating one
25 inch as an acceptable margin during normal operations,

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1 but that is not the case as clearly stated in the
2 license amendment request.

3 The license amendment states, quote, as
4 described in the UFSAR Subsection 3851, the annex
5 building is structurally separated from the nuclear
6 island structure by a three inch minimum gap above
7 grade. It continues, the maximum relative seismic
8 displacement between the roof of the nuclear island
9 and the annex building is less than two inches. This
10 results in a clearance or gap between buildings
11 greater than one inch during a seismic event. That's
12 the LAR at page 3.

13 What this says, in other words, UFSAR
14 requires a minimum gap, three inches, as part of the
15 design for normal operations in order to ensure that
16 any settlement that occurs during an earthquake does
17 not reduce the distance to less than one inch. This
18 reduction in the permissible gap size is inconsistent
19 with the rationale for the three inch requirement and
20 increases the potential for interactions between the
21 nuclear island and the adjacent Category 2 buildings
22 during a seismic event. Thus it raises the potential
23 for an accident that could harm the public.

24 SNC finds that the maximum relative -- in
25 LAR at page 5, the maximum relative seismic

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1 displacement between the nuclear island and the annex
2 building is such that the reduction of the seismic gap
3 does not affect the required maintain one inch minimum
4 gap during safe shutdown events. However -- that was
5 the LAR at page 5. However, SNC does not account for
6 the fact that more settling may occur during an
7 earthquake and thus the proposed margin of two inches
8 is not enough.

9 Petitioner has presented a written
10 argument justifying standing and has provided
11 declarations from four local residents, two of those
12 individuals, Reverend Charles Utley and Reverend
13 Claude Howard, both lifelong residents, are here today
14 in the virtual courtroom. If permitted, Judge
15 Bollwerk, they are prepared to make brief statements
16 in support of standing. I respectfully request your
17 permission, Chairman Bollwerk.

18 JUDGE BOLLWERK: At this point, I don't
19 think that's necessary, unless the other judges wish
20 to hear it.

21 JUDGE ARNOLD: Not I. This is Judge
22 Arnold.

23 JUDGE ABREU: And this is Judge Abreu.
24 Not I.

25 JUDGE BOLLWERK: I think it's fairly

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1 clear, Mr. Zeller, from the affidavits you filed and
2 from the -- well, from the affidavits you filed that
3 these individuals -- the individuals that you
4 presented, I guess you gave us four affidavits. At
5 least one of them was within about seven miles or
6 perhaps a little closer to the plant. I take it
7 that's correct?

8 MR. ZELLER: That's correct, yes.

9 JUDGE BOLLWERK: Okay. All right. I
10 don't think we need then to have any other information
11 about that at this point. Thank you.

12 MR. ZELLER: All right, very well.
13 Reverend Claude Howard had a comment regarding that
14 his brothers and sisters would get together and talk
15 about events when they felt the group shake. And
16 Reverend Utley said words to the effect that this is
17 my home. From experience and understanding, he's
18 worked for 40 years counseling students who live in
19 the area exposed to contamination. It affects his
20 family and his church family which continues. He
21 strives to keep his family and church members safe.
22 So that's pretty much a synopsis of what they would
23 have said.

24 In sum, the issue before the Panel center
25 on earthquake impact and safety factors which I have

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1 detailed. Therefore the proximity factor, proviso
2 granting standing for individuals within a 50-mile
3 radius is met. Those are members who live and work
4 less than half that distance away from Plant Vogtle.
5 Also we note that although standing is disputed by
6 Southern Nuclear Operating Company, NRC staff does not
7 oppose granting a standing in this matter.

8 Okay, I'll move on to Southern Company
9 disputes Gundersen's expert witness. Southern Company
10 states that Petitioner fails to establish how Mr.
11 Arnold Gundersen is qualified to provide expert
12 testimony. That's SNC's answer at 11.

13 It is hard to imagine a more qualified
14 information than Mr. Gundersen who has an advanced
15 degree in a nuclear engineering degree, was a licensed
16 nuclear reactor operator, performed structural
17 engineering assessments, rose to become a senior vice
18 president for a nuclear licensee, and is sought by the
19 nuclear industry itself to provide expertise.
20 Petitioners replied to SNC includes a detailed litany
21 of Mr. Gundersen's qualifications. I'll now move on
22 to our contentions.

23 Number one is license revocation for
24 material false statements and Contention No. 2, base
25 mat foundation and construction package create

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1 unacceptable operational risk to public health and
2 safety. I will dwell on Contention No. 2 primarily.
3 I understand or I've come to understand that license
4 revocation may be outside of the hand of the Atomic
5 Safety Licensing Board in this matter. So I will
6 leave that as it is.

7 Regarding Contention 2, in their license
8 amendment request, Southern Company claims that change
9 in the current design requirement is localized,
10 reducing a three inch gap between the nuclear island
11 and the annex building two and one sixteenth inches
12 and that it does not affect the relative displacement
13 between the roofs of the two buildings or the gap
14 below grade. This is not the first request from the
15 company for such an amendment to its combined
16 operating license. Is the seismic gap an isolated
17 event or a series?

18 A license amendment granted by the NRC in
19 2018 to Southern Nuclear for Plant Vogtle stated,
20 changes relax -- the proposed changes relax the
21 minimum gap requirements above grade between the
22 nuclear island and the annex building, turbine
23 building, and remove the minimum gap requirement
24 between the nuclear island and the RAD waste building.
25 That's from the license amendment request of 2018, 18-

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1 002. The requested changes were from ITAAC and
2 corresponding Tier 1 information.

3 The exemption allowed changes in the DCD,
4 the Design Control Document, and the combined
5 operating license. The 2018 license amendment
6 assuredly addressed the same issues posited in the
7 2020 amendment, stating separation is provided between
8 structural elements of the turbine and annex buildings
9 and the nuclear island structure. This separation
10 permits horizontal motion of the building in a safe
11 shutdown earthquake without impact between structural
12 elements of the buildings. That is from the LAR of
13 2018.

14 The NRC safety analysis for LAR 18-002
15 stated, quote, the latest AP1000 generic 2D SASSI
16 analysis shows that the maximum relative seismic
17 displacement between the annex building and the
18 nuclear island is 0.95 inches and between the turbine
19 building and the nuclear island is 1.04 inches. In
20 2020 comes another request for license amendment at
21 Plant Vogtle asking the Commission to grant further
22 narrowing of the distance between the nuclear island
23 and adjacent building.

24 So is the 2020 nonconformance a one-time
25 event? Clearly not. Is there reasonable doubt that

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1 the causes driving the need for amendment after
2 amendment, are spent? Clearly yes. What is that
3 cause? Uncertain. Clearly, further independent
4 analysis is justified.

5 Comparing apples to oranges, issuing a
6 differential settlement, both SNC and NRC confuse or
7 mischaracterize BREDL's argument regarding the
8 occurrence of dishing. The UFSAR acknowledges that
9 the differential settlement under the nuclear island
10 foundation could cause the base mat buildings to tilt.
11 Differential settlement shows up again and again.
12 That's NRC's answer I quoted from at 24.

13 Further, the NRC states, design-specific
14 parameters for Vogtle Unit 3 address expected
15 settlement citing AP1000 DCD Section 3A542. But the
16 discussion centers on differential settlement and
17 bounding parameters for the nuclear island. The
18 stated final safety analysis report and plant-specific
19 design control documents cited by NRC discuss a
20 differential settlement throughout, not dishing.

21 The difference is critical to
22 understanding the safety concerns raised in our
23 petition. Differential settlement is linear. With
24 differential settlement, the base is not level but it
25 stays flat. Dishing is different. It is curved.

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1 Dishing creates unanalyzed stresses.

2 Our petition states that to dismiss
3 concerns about one phenomenon by confusing it with a
4 similar but critically different process would
5 sidestep the safety issues we have identified. In
6 this license amendment request, Southern Company
7 states, nuclear island base mat has deflected more at
8 the center and less at the perimeter. It continues.

9 Theoretically -- this is Southern Company.
10 Theoretically, this suggests that the nuclear island
11 tends to tilt away from the annex building. That is
12 from the license amendment request 20-001 at page 8.
13 In this application, Southern Company has admitted
14 that the sinking is not linear, more at the center,
15 less at the perimeter. Arnold Gundersen made
16 reference to such in his declaration supporting our
17 petition for intervention and it is part of Contention
18 2.

19 However, SNC attempts to limit the scope
20 to a change in wall and not to the dishing of the base
21 mat. They brought up dishing without using the term
22 in the license amendment request. They admit that
23 tension at the bottom of the base mat is different
24 than compression at the top. According to SNC, this
25 is representative of dishing. That's from Southern

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1 Nuclear Company's answer at 21.

2 Nuclear island basemat is sinking more in
3 the middle. We would not have known that without this
4 license amendment request. There still is no publicly
5 available data on the rate of sinking, but we now know
6 as a result of the license amendment request that it
7 is nonlinear. An Applicant must satisfy the
8 requirements of 10 CFR 50.90 and demonstrate that the
9 requested amendment meets all applicable regulatory
10 requirements and acceptance criteria and does not
11 otherwise harm public health and safety nor the common
12 defense and security. And 10 CFR 52.97(b) controls
13 NRC's review of license amendment. A mere theory
14 about why buildings in the nuclear island are shifting
15 does not meet these requirements.

16 Further, a propriety claim screens
17 information without public scrutiny. NRC staff and
18 the Structural, Civil, Geotech Engineering Branch
19 conducted an audit during March 10 to April 30. SNC
20 and Westinghouse made those documents available via a
21 portal of Westinghouse Electric Company electronic
22 reading room. This is a memorandum from the NRC.

23 This non-docketed information, which is
24 unavailable to the public, was used by NRC to, quote,
25 evaluate the acceptability of the proposed changes to

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1 the license, end quote. NRC spent 400 dollars
2 reviewing Vogtle seismic analysis, but took no
3 documents out. Their conclusion, quote, based on the
4 review of information provided by the internet portal,
5 the NRC did not identify any outstanding issues, from
6 the memorandum of the audit at page 3.

7 Also, NRC reached a no significant hazards
8 determination. We understand that NRC's no
9 significant hazards consideration is not subject to
10 challenge in adjudicator proceeding. Nevertheless,
11 this Petitioner has filed a FOIA request which is in
12 process.

13 On Friday, we received word that, quote,
14 records that are subject to your FOIA request, NRC
15 2020-000234, had been sent to the submitter/licensee
16 for review of records that originated from their
17 agency. Once we receive the respective agency's
18 disposition of the release of these records, we will
19 continue processing your request. So that is in
20 process.

21 Finally, the Atomic Safety Licensing Board
22 may provide relief short of license revocation. As
23 you know, the license amendment may be approved or
24 rejected by the NRC or withdraw by the licensee. This
25 is in many places, including in the Nuclear Energy

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1 Institute's Revision 2 guidance. The Atomic Safety
2 Licensing Board alone has the power to initiate the
3 level of review required to ensure public safety by
4 withholding approval of the license amendment
5 requested by Southern Nuclear Operating Company. Dr.
6 Abreu, Dr. Arnold, and Chairman Bollwerk, thank you.

7 JUDGE BOLLWERK: I have just a couple
8 questions at this point, and I may have some others
9 later. But let me just ask you briefly a couple
10 things that you talked about. You mentioned, I guess,
11 Contention 1 that you did not have a lot more you
12 wanted to say about it given the presentations that
13 have been made about the authority of the Board to
14 revoke the license.

15 But much of the contention appeared to be
16 based on the assertion that the walls in question were
17 finished as long as five years ago. And I guess
18 Southern and the staff made a point in their pleadings
19 or answers that, that fact was not the case. A lot of
20 it wasn't completed until 2019. And your reply didn't
21 say anything about that. I just want to see if you
22 had anything further you wanted to say about that.

23 MR. ZELLER: Yes, thank you, Judge
24 Bollwerk. This is Lou Zeller. And part of the
25 problem for us at least from the beginning has been

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1 their keeping proprietary of the scheduling for the
2 construction at Plant Vogtle Unit 3. In response, one
3 of the answers pointed to a public website maintained
4 by Georgia Power and Southern Nuclear Company which
5 had some very beautiful photographs of the
6 constructions which was ongoing. But they were not
7 something which you could rely on to say, what
8 happened and when. So we're still at a loss to
9 determine the exact timing of it because the
10 information is kept proprietary of the schedule of
11 what happens at Vogtle. So therefore, we're looking
12 for further information.

13 JUDGE BOLLWERK: All right. I guess your
14 reply also indicated you've been contacted by the
15 Section 2.206 coordinator, that the staff had referred
16 your concerns to -- so that you could use the 10 CFR
17 Section 2.206 process. Can you tell me anything about
18 the status of that?

19 MR. ZELLER: Certainly. This is Lou
20 Zeller, and the 2.206 unit did contact me. And we've
21 had a brief discussion as recently as last week. The
22 discussion is ongoing. I would add that we have been
23 involved in 2.206 enforcement petitions in the past
24 and with no -- I'm not saying anything bad about any
25 of the people there. But it is a leaky vessel for

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1 hope because deadlines are oftentimes missed and it
2 does not have the gravitas of the appearance of a
3 hearing like the one we're having today before the
4 Atomic Safety Licensing Board. So we much prefer to
5 continue with this process today, and we'll hold
6 judgment on the 2.206 pending how the discussions go
7 with that unit.

8 JUDGE BOLLWERK: All right. Thank you.
9 One other question. BREDL had previously been
10 involved in a couple of licensing proceedings before
11 licensing boards dealing with the Vogtle facility and
12 other license amendments that had been requested. And
13 there were two decisions that were issued, LPB 16-5
14 and LPB 16-10, one dealing with the wall thickness,
15 the other dealing with hydrogen igniters.

16 And in both of those cases, the licensing
17 board indicated that BREDL didn't challenge the
18 exemptions associated with the license amendment
19 request at issue. Your petition contains challenges
20 to the license amendment request with those cases but
21 said nothing about the extension request. Are you
22 contesting the exemption request here? Both the
23 licensing boards in those previous cases indicated you
24 were not contesting the exemption.

25 MR. ZELLER: We are. We mean to contest

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1 them, yes, Judge Bollwerk.

2 JUDGE BOLLWERK: But you certainly haven't
3 said it in your petition.

4 MR. ZELLER: Well, I guess maybe that's --
5 that may be true, explicitly.

6 JUDGE BOLLWERK: All right. Thank you.
7 Let me just see if either Judge Abreu or Judge Arnold
8 have any questions at this point for Mr. Zeller.

9 JUDGE ARNOLD: Yes, this is Judge Arnold.
10 I have one question. You mentioned something about an
11 earlier license amendment that had to do with wall
12 spacing, correct?

13 MR. ZELLER: That's correct, yes.

14 JUDGE ARNOLD: I did not find anything
15 about that in your petition. So is this a new
16 argument on your part?

17 MR. ZELLER: There were -- if I understand
18 the question correctly, this is Lou Zeller, there were
19 two previous license amendment requests which BREDL
20 challenged at Plant Vogtle. Those were separate
21 proceedings, one on cement tolerances, the other one
22 on hydrogen igniters. I'm not aware of any
23 association between those two things except that they
24 were in the same place for the same reactor.

25 JUDGE ARNOLD: Well, no, I'm just asking

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1 because you discussed them just now. And I don't see
2 anything about them in your current petition
3 concerning this license amendment request. So are you
4 adding a new argument to your discussion?

5 MR. ZELLER: This is Lou Zeller. No, this
6 is -- the discussion or the inclusion of license
7 amendment request 18-002 is part of the record of this
8 proceeding. It was raised, in fact, by NRC staff in
9 their answer, for example. And it is one that we did
10 not challenge back in 2018.

11 JUDGE ARNOLD: Okay. No more questions.

12 JUDGE BOLLWERK: So I take it, Mr. Zeller,
13 your argument is you're incorporating that. Now it's
14 part of your argument because the staff raised it?

15 MR. ZELLER: Yes, so that there is more --
16 this is an ongoing process in terms of the base mat
17 dishing and continuing or a continual process which
18 required at least one exemption and license amendment
19 in 2018. And that was granted, and that's in the
20 record of this proceeding. And now they're coming
21 back to the bar for another license amendment. That's
22 the point.

23 JUDGE BOLLWERK: All right. Thank you.
24 Judge Abreu?

25 JUDGE ABREU: I have no questions at this

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1 time.

2 JUDGE BOLLWERK: All right. Well, at this
3 point, I think we'll go ahead and move on to Southern.
4 And I should say, Mr. Zeller, you obviously have some
5 time for rebuttal. It's also possible that some of
6 the matters that you've raised in your direct argument
7 may become the subject of some questions after we've
8 heard from all the parties' arguments. So we'll leave
9 it at that at this point. Thank you very much for
10 your presentation, sir.

11 MR. ZELLER: Thank you, Judge Bollwerk.

12 JUDGE BOLLWERK: I guess Mr. Blanton, it's
13 your turn.

14 MR. BLANTON: Yes, sir, Judge. Thank you.
15 This is Stan Blanton for Southern Nuclear. Southern
16 Nuclear certainly appreciates the opportunity to
17 express its position on this petition to intervene
18 with the Board. My plan, Judge, is to give sort of an
19 overview of our argument and then address each of
20 these contentions in slightly more granular level of
21 detail.

22 Before I do that, I'm going to try to
23 respond as much as I can to some things I heard Mr.
24 Zeller say in his argument. There may be some cleanup
25 at the end. And then my hope is that there's plenty

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1 of time for the Board to ask questions after that. Is
2 that acceptable, or are there any questions right now?

3 JUDGE BOLLWERK: It's certainly acceptable
4 to me. Judge Arnold or Judge Abreu, any comments you
5 have?

6 JUDGE ARNOLD: That's fine with me.

7 JUDGE ABREU: That sounds fine.

8 JUDGE BOLLWERK: Okay. Then Mr. Blanton,
9 why don't you proceed.

10 MR. BLANTON: Yes, sir. I want to make
11 clear and it sounds like the Board is clear. But I
12 want to make clear because of something I just heard.
13 The license amendment request at issue here -- and if
14 it's okay, I'm going to refer to the license amendment
15 request as a LAR.

16 LAR 20-001 seeks only to reduce the
17 minimum distance for a portion of the auxiliary
18 building and annex building walls from three inches to
19 two and one sixteenth inches in both the UFSAR and the
20 associated ITAAC. I think I heard Mr. Zeller in his
21 argument say that something to the effect that the
22 amendment was to make the minimum distance one inch
23 under normal operating conditions. That's not
24 accurate. That's what he said.

25 The one inch that's referred to in the

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1 amendment is the clearance between the walls during a
2 safe shutdown earthquake event. The amendment in
3 question seeks only to reduce that portion of the
4 auxiliary building or the minimum distance of that
5 portion of the auxiliary building and annex building
6 walls from three to two and one sixteenth inches, less
7 than an inch of change. That's all of our request,
8 and the only issues that are within the scope of this
9 proceeding are those that are material to whether the
10 distance between the walls as changed will provide
11 reasonable assurance that they will not interact with
12 each other as a result of the ground motion produced
13 by the safe shutdown earthquake.

14 This LAR does not request a change to the
15 one inch minimum distance between the walls that is
16 specified in the FSAR to be maintained during the SSE.
17 Also, the LAR does not seek a change to the settlement
18 parameter for the AP1000 set out in the AP1000
19 certified design and incorporated by reference in the
20 Vogtle Unit 3 license. Intention regarding settlement
21 or structural issues that are not material or whether
22 the affected portions of the walls of the two
23 buildings will remain separated during the SSE are
24 simply not material to this LAR and are not within the
25 scope of this proceeding.

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1 In fact, BREDL's contentions, as
2 originally filed has contrasted to their argument
3 today, barely make reference to the changes requested
4 by LAR 20-001. To the extent they do, they utterly
5 fail to draw any logical connection between their
6 contentions and issues such as the stiffness of a
7 respective wall which are material to the amendment
8 request. There is no explanation in the petition of
9 how the dramatic but unquantified and unsupported
10 allegations regarding the settlement of a foundation
11 of the nuclear island make it more or less likely that
12 the buildings would interact during a safe shutdown
13 earthquake nor could they since both LAR and the
14 undisputed publicly available information regarding
15 the settlement of the Vogtle nuclear island
16 demonstrate that it is well within the parameters
17 approved by the NRC and the AP1000 design
18 certification.

19 Without some logical connection to the
20 findings NRC must make to approve the changes
21 requested by LAR, the contentions are outside the
22 scope of this proceeding. Moreover, as we've
23 discussed in our brief, the allegations in the
24 contention consist solely of bare assertions without
25 the support required to create an issue of fact and in

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1 many cases are refuted by undisputed publicly
2 available information. Further, although BREDL
3 submits the declaration of Mr. Gundersen, there is
4 nothing in Mr. Gundersen's discussion that his
5 education and experience would suggest he is an expert
6 in the complex fields of structural or geotechnical
7 engineering which we submit would be required to give
8 an opinion about these issues in this matter.

9 Finally, BREDL has failed in its petition
10 to establish representational standing on behalf of
11 Reverend Utley and Howard and the other individuals
12 who filed affidavits. Not because those individuals
13 are not interested in the safety of Plant Vogtle as we
14 all are, but because standing in this proceeding
15 cannot be based merely upon proximity or interest but
16 must be based on a showing by the Petitioner that the
17 specific changes at issue create obvious potential for
18 all site consequences. BREDL has not even attempted
19 to make such a showing as it relates to the specific
20 change requested by this amendment.

21 BREDL, while pro se, is an experienced
22 litigant before this Board and the Commission and
23 should be well acquainted with those standing
24 requirements. It is appearing pro se and should not
25 excuse its failure to properly establish its standing.

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1 Now I'd like to turn to and address Contention 1 in
2 more detail.

3 Contention 1 alleges that SNC has somehow
4 supplied false or incomplete information to the NRC.
5 The contention is grounded on an allegation that the
6 walls in question were constructed five years ago.
7 And for some unexplained reason, Southern Nuclear
8 decided to wait until now to submit this LAR.

9 The contention seeks the revocation of the
10 Vogtle license. Obviously, as the Board has already
11 pointed out, a license, and as I think Mr. Zeller has
12 conceded, a license amendment request is not the
13 proper avenue for a Petitioner to pursue an action to
14 revoke a license. 10 CFR 2.206 is the proper avenue
15 for such a request, not this proceeding. So the
16 request is out of scope for that reason alone.

17 Second, the linchpin in Petitioner's
18 contention that SNC has somehow sat on information
19 regarding the nonconformance motivating the LAR for
20 five years is demonstrably false. The walls in
21 question were only constructed in 2019. The survey
22 revealing the nonconformance were done in 2019 and
23 confirmed in 2020.

24 These facts are established by any number
25 of publicly available sources that are listed in

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1 detail in our answer which include NRC inspection
2 reports that are publicly available. Petitioner has
3 presented no information to dispute these facts.
4 Moreover, the dates of the walls in questions were
5 constructed as a matter of fact, not expert opinion.

6 BREDL cannot alter the undisputed facts
7 regardless of the qualifications or allegations of its
8 witness. And there's no factual basis in the
9 allegation to support that the walls were constructed
10 in 2015. The result, Contention 1 is out of scope,
11 it's unsupported, and it's inadmissible.

12 Turning to Contention 2 in this discussion
13 of dishing. The gist of Contention 2 is that Vogtle
14 Unit 3 -- excuse me -- the Vogtle Unit nuclear island
15 foundation is, quote, sinking or dishing. The
16 contention alleges that the nonconformance that is the
17 subject of a LAR as a result of this dishing. In
18 essence, that the COL -- and argues in essence that
19 COL should be suspended until the, quote, structural
20 integrity, close quote, of Vogtle Unit 3 which
21 includes not only the Vogtle COL but also the AP1000
22 certified design is effectively re-reviewed and
23 reapproved by NRC.

24 Again, the relief requested by BREDL in
25 contention was obviously available in this proceeding.

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1 In any event, the relief would stand the finality,
2 accorded certified designs, and issues resolved in COL
3 proceedings on its head. Apart from that, however,
4 the contention is based on a collection of
5 misunderstandings, misstatements and unsupported bare
6 assertions that fail to satisfy the NRC's contention
7 admission requirements.

8 First and perhaps most importantly,
9 Contention 2 is based on a demonstrably false premise
10 that differential settlement for the nuclear island
11 foundation and adjacent buildings was ignored in LAR
12 20-001 and was, quote, not anticipated in the AP1000
13 design. By the contrary, the LAR expressly includes
14 an evaluation of differential settlement. Moreover,
15 the AP1000 DCD, which is incorporated by reference in
16 the Vogtle FSAR, not only anticipates differential
17 settlement of the foundation. It provides parameters
18 for settlement within which no further evaluation of
19 the settlement is required.

20 The safety evaluation report for 18-002,
21 and I'm glad to hear Mr. Zeller is aware of the record
22 for 18-002. But that safety evaluation report
23 prepared by NRC staff demonstrates that differential
24 settlement at Vogtle Unit 3 is well within the
25 parameters of a DCD, and is in fact 40 percent less

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1 than what the AP1000 model predicts due to the stable
2 characteristics of the Vogtle site. The petition
3 provides no factual support to review this facts.

4 And I would say that the distinction we've
5 heard this morning between, quote, dishing and
6 differential settlement is not included in the
7 petition and constitutes evidence trying to be
8 presented in this contention admissibility proceeding
9 which is not permitted. In fact, the Vogtle DCD -- or
10 the Vogtle FSAR which incorporates the AP1000 DCD does
11 evaluate many different construction sequences which
12 do evaluate settlement across the foundation,
13 including greater stresses in the middle of the
14 foundation than at the perimeter. This is precisely
15 how Mr. Gundersen defines dishing, and it's been
16 reviewed and approved as part of the design
17 certification process and is not subject to challenge
18 in this license amendment proceeding.

19 Certainly, the argument that the current
20 condition of localized nonconformance is not the as-
21 built condition -- the quote, as-built condition of
22 the subject walls. Neither makes sense nor is it
23 supported by anything other than speculation. There's
24 no evidence other than Mr. Gundersen's bare
25 unsupported assertion that the affected area of the

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1 auxiliary building wall is not in the same condition
2 as it was when construction was completed. In any
3 event, the as-built condition simply means you have
4 the actual condition of the wall at the time its
5 inspected.

6 As contrasted, we have the design
7 configuration. Petitioner's arguments regarding
8 whether the wall is in its, quote, as-built condition
9 is a red herring. It demonstrates their lack of
10 experience with structural concepts.

11 Absent evidence that the differential
12 settlement of the Vogtle nuclear island and annex
13 building not only exceed the parameters approved in
14 the AP1000 DCD but also adversely impact the
15 requirement that the walls not interact during a safe
16 shutdown earthquake. Settlement is simply not
17 relevant to the pending license amendment request.
18 The AP1000 DCD makes clear that settlement within the
19 parameters does not affect the safety function of the
20 equipment in the nuclear island. That's the certified
21 design by the NRC.

22 Petitioners cannot challenge that DCD
23 provision or the DCD settlement parameters in this
24 license amendment proceeding. There's absolutely
25 nothing in the contention or the record to suggest

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1 that differential settlement of the nuclear island or
2 the annex building exceed or is rationally expecting
3 to exceed these design parameters that were approved
4 by the NRC. To the contrary, the settlement
5 evaluation in the LAR clearly states that the
6 settlement survey data for 2019 suggest that long-term
7 differential settlement of foundations should be
8 relatively small or a thick layer of engineered
9 backfill between the blue bluff morrow bedrock and the
10 6-foot thick reinforced concrete foundations of the
11 nuclear island. Petitioner has provided nothing of
12 substance to refute that evaluation.

13 Although the Petitioner has made a general
14 request for information supporting the LAR -- and now
15 I'm going to turn to the issue of what information
16 Petitioner has available to it. Although the
17 Petitioner has made a general request for information
18 supporting the LAR, there's no contention of omission
19 in the petition asserting that the LAR lacks necessary
20 information. NRC conducted a sufficiency review of
21 the license amendment request and determined that the
22 technical evaluation included in the LAR was adequate
23 and it's neither challenged nor challengeable. That
24 acceptance review is neither challenged or
25 challengeable.

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1 The failure of the Petitioner to assert a
2 contention of omission makes any complaint about lack
3 of detailed information immaterial. In short,
4 dramatic language does not substitute for the lack of
5 supporting information and a material contention under
6 NRC's rules. Finally, we're going to address -- or
7 next, we're going to address Mr. Gundersen's
8 qualifications which we have challenged in this
9 petition to intervene.

10 Issues of structural integrity of
11 structures, especially in the context of the
12 interaction with soil vibration during a safe shutdown
13 earthquake are among the most complex and theoretical
14 issues confronted in the approval of a standard
15 nuclear plant design and the licensing of a nuclear
16 plant site. I remember well, Judge Bollwerk, the
17 hearing we had on these issues in the ESP and COL
18 process. This is truly an area where special
19 expertise is necessary in order to provide meaningful
20 opinions to an Atomic Safety and Licensing Board.

21 At a bare minimum, the Board should expect
22 the witness' credentials to include degrees in
23 structural or geotechnical engineering and direct
24 hands-on experience in dealing with structural and
25 seismic issues. Mr. Gundersen's credentials,

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1 impressive though they are in some areas, evidence no
2 such training or experience. Certainly, managerial
3 relationships with specialists in a discipline does
4 not convert the manager into an expert in each of the
5 disciplines overseen and reliance on materials found
6 in literature or the internet also don't substitute
7 for professional credentials.

8 Just as an example, and with all due
9 respect to Mr. Gundersen, in paragraphs 36.5 and 39 of
10 Mr. Gundersen's declaration, he expresses the
11 conclusion that this amendment concerns two 12-foot
12 high walls when the LAR itself makes clear that we are
13 really dealing with a 12-foot vertical span in an
14 approximately 50-foot high wall, most of which, both
15 above and below the nonconformance, maintains the 3-
16 inch gap required by the design. A cursory review of
17 the FSAR or the DCD would have revealed that the two
18 walls in question are approximately 50 feet high, not
19 the 12 feet that Mr. Gundersen concludes. It is not
20 too much to ask the witness proffered as an expert, to
21 understand such basic facts.

22 Nor is it enough for Mr. Gundersen to cite
23 the work of others or in one case, the New York Times.
24 If BREDL wants to rely on the opinions of those
25 individuals, they need to provide a declaration from

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1 them, address the specific issues raised by this
2 amendment request and demonstrate their qualifications
3 as an expert. Otherwise, the allegations of the
4 declaration are no more than speculation of a lay
5 witness.

6 Finally, I'll address standing. It's
7 clear that in a license amendment proceeding,
8 proximity alone does not establish standing. The
9 contention must go further and provide some plausible
10 or credible causal change between the change requested
11 by the amendment and the potential for offsite
12 consequences. Although the NRC staff correctly notes
13 that the allegations establishing standing are a
14 separate question from whether they are meritorious,
15 the Petitioner is no less required to provide some
16 logical connection between the change requested and
17 the offsite consequence asserted.

18 Here, BREDL has failed to do that.
19 Unquantified and unsupported allegations that the
20 foundation of the building are, quote, sinking, do not
21 logically lead to any risk of damage to the buildings
22 or damage to the reactor as BREDL speculates and
23 certainly don't directly address the change requested
24 by this license amendment. Without a causal
25 connection between the requested change and the

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1 offsite consequences, there is no standing,
2 notwithstanding these individuals very understanding
3 interest in the safety of Plant Vogtle. I think
4 that's all I have, Your Honors, and I'd be happy to
5 respond to any questions or try to.

6 JUDGE BOLLWERK: This is Judge Bollwerk.
7 Thank you, Mr. Blanton. I do have some questions.
8 Let's start with standing. That's the last matter you
9 dealt with. So on its website, the NRC has a glossary
10 of terms which defines auxiliary building as a
11 building at a nuclear power plant which is frequently
12 located adjacent to the reactor containment structure
13 and houses most of the auxiliary and safety systems
14 associated with the reactor, such as radioactive waste
15 systems, chemical and volume control systems, and
16 emergency cooling water systems. I'd be interested in
17 any information to can give us about what equipment or
18 operations are in the auxiliary building that's the
19 subject of the license amendment in the exemption
20 request.

21 MR. BLANTON: Well, I think you've done it
22 yourself, Judge. They are they support systems for
23 the equipment in containment, and there are any number
24 of safety-related systems in that auxiliary building.
25 Our argument is not based on the lack of safety

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1 significance of the auxiliary building.

2 JUDGE BOLLWERK: Okay. Just out of
3 interest, what are the equipment and operations that
4 are in the annex building subject to the license
5 amendment and the exemption request?

6 MR. BLANTON: Yeah, the annex building
7 tends to house -- first of all, the auxiliary building
8 is a seismic Category 1 building which means it has to
9 survive a safe shutdown earthquake. The annex
10 building is a seismic Category 2 building which means
11 that it cannot interfere with a seismic Category 1
12 building during a safe shutdown earthquake. And the
13 annex building houses -- again, it's a pretty large
14 building and it has a lot of stuff in it. But it has
15 things like labs. It has low-level radioactive waste,
16 I think, storage maybe. Whereas the auxiliary
17 building houses everything from a control room to any
18 number of different sorts of safety-related equipment.

19 JUDGE BOLLWERK: All right. Can you say
20 anything about the equipment or operations that are in
21 the annex building and the auxiliary building at the
22 portion of the wall that's in controversy here,
23 exactly what's there?

24 MR. BLANTON: I'd probably have to ask
25 somebody a question about that, Your Honor. I'm

1 sorry.

2 JUDGE BOLLWERK: Okay. One other
3 question. When I did my introduction, I talked about
4 the proportion of the wall. Is that -- were we
5 talking about -- hold on one second here. Is that --
6 well, I guess the question is, is that an I or a Roman
7 numeral one that's talking about that portion of the
8 wall?

9 MR. BLANTON: Judge, I asked BREDL the
10 same thing when I started working with this, and I
11 believe that's Column I.

12 JUDGE BOLLWERK: Column I. So it's the
13 letter I. Okay. Thank you.

14 MR. BLANTON: And that sort of -- if I can
15 describe it -- this is difficult to describe over the
16 phone. But the area of nonconformance is actually
17 coming from the auxiliary building. Okay? So there's
18 slightly less than one inch of the auxiliary building
19 that bows out, and it's about -- I think about 40 feet
20 up from grade. And so it runs in a -- I guess an east
21 to west direction to basically the corner of the
22 auxiliary building.

23 JUDGE BOLLWERK: So it's the auxiliary
24 building, not the annex building, that's the one
25 that's bowed?

1 MR. BLANTON: Correct.

2 JUDGE BOLLWERK: Okay. And you had
3 mentioned but you dropped off just at the point you
4 said the wall. Did I hear you say 30 feet high rather
5 than 12 feet?

6 MR. BLANTON: The wall in question --
7 there are different elevations for both of these
8 buildings based on where the roof line is. But it's
9 my understanding that the way in question starts at
10 about 100 feet of elevation and goes up to about 155
11 or six feet of elevation. So the area of
12 nonconformance starts about 40 feet and ends about
13 three feet below the roof line.

14 JUDGE BOLLWERK: All right. And I heard
15 you say and I know it's Southern's position that a
16 safe shutdown earthquake will not cause a seismic gap
17 between the auxiliary building and the annex building
18 to be compromised. But if an event were to occur, if
19 the wall of the annex building breached the opposing
20 auxiliary building wall, what would be the potential
21 impacts of such an event in terms of safe operations
22 or radiological releases?

23 MR. BLANTON: Well, I'm told, first of
24 all, that in the area of the -- well, first of all,
25 the annex building, you've got restrooms and hallways

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1 in the vicinity of the nonconformance in the annex
2 building. As far as the question about what would
3 happen if the walls interacted during a safe shutdown
4 earthquake, our position is not that, that would not
5 be a safety consequence from that. I mean, I don't
6 know that we've analyzed it, but that's not what our
7 standing argument is based on. Our standing argument
8 is based on the fact that the Petitioner has made no
9 such case, and this hearing is not the place to do
10 that.

11 JUDGE BOLLWERK: All right. I mentioned
12 to Mr. Zeller the two previous Vogtle license
13 amendment cases back in 2016. And in both of those
14 instances, the licensing board found that BREDL had
15 standing to intervene. I'm recognizing that both
16 standing holdings were based on factual circumstances
17 presented in those cases that involve containment
18 material, wall thicknesses, and hydrogen igniters.

19 And in the case of LPB 16-10, there was an
20 appeal to the Commission. The Commission declined to
21 address a standing holding. But you really haven't
22 made any attempt to discuss or distinguish those
23 cases. What's your position on those cases? Are they
24 distinguishable, or were they wrongly decided? What's
25 your position?

1 MR. BLANTON: Yes, sir. They are. In
2 each of those cases, the contention -- I'm sorry.

3 (Simultaneous speaking.)

4 JUDGE BOLLWERK: Are they distinguishable
5 or wrongly decided? I guess that's my question.

6 MR. BLANTON: They're distinguishable.
7 We're not arguing --

8 JUDGE BOLLWERK: Okay.

9 MR. BLANTON: -- if they're wrongly
10 decided. In both of those cases, the contention was
11 much more closely related to the change being
12 requested than here. In one of those cases, we had
13 argued that essentially that the offsite -- and really
14 in both of them, that the offsite consequences alleged
15 were either speculative or had such low probability
16 that they really weren't real offsite consequences and
17 did not satisfy that standard of sort of a plausible,
18 credible risk of offsite consequences. And in both
19 those cases, obviously the Board disagreed with us.

20 Here, our argument is different, is that
21 the Petitioner has failed to even try to connect the
22 offsite consequences it alleges with the particular
23 change in question. If you look at Mr. Gundersen's
24 affidavit and the contention, it is much more in the
25 nature of a failure of the nuclear island foundation

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1 that causes some severe damage to the nuclear island
2 structure itself due to settlement rather than the
3 walls interacting during a safe shutdown earthquake.

4 They barely mention the distance between
5 the walls and their contention or in Mr. Gundersen's
6 declaration. It's all about the foundation. And our
7 position is they've at least got to tie their offsite
8 consequences to the particular change being requested
9 which is a very small change in this distance between
10 -- minimum distance between the two walls -- between
11 a portion of the two walls.

12 JUDGE BOLLWERK: All right. One last
13 standing question. If you look at the staff's NUREG
14 800 standard review plan, Section 14.3 concerning
15 inspections, tests, analyses, and acceptance criteria,
16 the ITAAC review responsibilities, it indicates that
17 Tier 1 information is that portion of the design-
18 related information contained in the generic design
19 control document, the DDC -- DCD, excuse me, that's
20 approved and certified by design certification rule
21 and should include, quote, the top level design
22 features and performance characteristics, unquote,
23 that are, quote, the most significant to safety,
24 unquote. And that's from the standard review plan at
25 page 14.3-16.

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1 As is the case for both the previous
2 Vogtle LAR cases, the license amendment exemption here
3 involves a change to Tier 1 information. Isn't that
4 a strong indication of the potential safety
5 significant of requested changes? It's something that
6 needs to be taken into consideration in standing?

7 MR. BLANTON: Well, certainly if they had
8 made a contention that addresses our amendment, yes,
9 Judge. And believe me, we are not contending that
10 this change to an ITAAC does not have safety
11 significance. It does, and we can see that. That's
12 the reason we filed the LAR is because you couldn't
13 address this under Tier 2. So yes, it has safety
14 consequences that just because an amendment has safety
15 consequences does not necessarily, we would propose,
16 confer standing on individuals without the necessary
17 showing of a causal link to the offsite consequences
18 from that specific change, not from some general risk.

19 JUDGE BOLLWERK: All right.

20 MR. BLANTON: It's not -- to put it
21 another way, I would contend that it's not up to the
22 Board and it's not up to the parties other than the
23 Petitioner to divine their standing from the petitions
24 and the underlying regulatory documents. They're
25 supposed to do that themselves. And in this case,

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1 they did not.

2 JUDGE BOLLWERK: All right. Thank you.
3 Let me ask you a couple questions related to
4 Contention 2. Under the settlement evaluation portion
5 of the LAR at page 8, Southern makes a statement.
6 From a practical perspective, as construction load
7 inducted settlement occurs, even if walls were to lean
8 towards the gap, construction means and methods
9 require that as wall construction progresses upwards,
10 walls are installed at original design location
11 offsetting any minor tilt that may have occurred in
12 the walls below, effectively minimizing building tilt
13 induced by the short term settlement.

14 Now I may be -- you mentioned the fact
15 that I think Mr. Zeller doesn't have a lot of
16 construction knowledge. I think you put it as lack of
17 expertise with construction concepts, and I may be
18 displaying the same thing here. But what this seems
19 to suggest is that if the wall position is -- wall
20 position, excuse me, is monitored so as to maintain
21 the appropriate vertical wall placement to avoid any
22 wall lean during construction. Why didn't this
23 approach identify and compensate for the
24 nonconformance with the annex building that caused the
25 seismic gap problem? In other words, why did the wall

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1 end up bowing out if you were monitoring it all the
2 time?

3 MR. BLANTON: You know, that's a good
4 question, Judge, and you've hit on the necessity of
5 this license amendment. Although we don't deem it
6 material to this LAR and we're certainly not trying to
7 introduce evidence here, the way these walls are
8 constructed or in phases as NRC staff has pointed out
9 and the concrete is poured into a stay in place form
10 while it sets. And in this particular case, the
11 belief is that one of those stay in place forms bowed
12 out slightly while the wall was being poured and while
13 it hardened and allowed this less than one inch bowing
14 out of the wall and in the encroachment.

15 So it wasn't a situation where the wall
16 was leaning towards the -- into the gap and they
17 poured it anyway. The wall was plume. They poured
18 the wall. And while the wall hardened, the concrete
19 slightly bowed. Does that make sense?

20 JUDGE BOLLWERK: I understand what you're
21 saying, yes. But I guess the LAR also indicates that
22 the -- the discussion portion of it indicates -- the
23 survey data also indicates a foundation deflection
24 contour in the annex building is uniform in the
25 vicinity of the nuclear island which did not result in

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1 tilted parameter structures toward the nuclear island.
2 So I guess with respect to the annex, you're saying
3 that one is straight up then?

4 MR. BLANTON: Well, we're saying that some
5 of the data collected so far indicate that that
6 building in itself, which is -- and again, settlement
7 was anticipated and approved in the design -- that
8 that annex building is basically settling uniformly at
9 the perimeter so that there's no even indication of a
10 tilt one way or the other. The nuclear island, the
11 settlement data indicates that it's settling somewhere
12 more in the center than at the perimeter. I would
13 emphasize that the settlement of both of these
14 buildings are both very small and a fraction of what
15 the design limits are and that the reference to the
16 tilting of the wall of the nuclear island is
17 theoretically if it were to tilt, it falls away from
18 the gap.

19 There's not -- first of all, the tilt
20 would be almost imperceptible to the human eye, and
21 there's no -- the amendment does not take the position
22 that it is tilting, only that it would tend to tilt
23 away from the gap to the extent it did. The
24 settlement evaluation is presented in the LAR to
25 support the safety of the reduction in the minimum

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1 distance precisely because those two walls are not
2 leaning toward each other.

3 JUDGE BOLLWERK: All right. Thank you.
4 And Judge Abreu and Judge Arnold, I haven't forgotten
5 about you. Let me finish up with a couple other
6 questions, and then I'll turn to you if you have
7 anything at that point. I want to ask you a couple
8 questions about document access from -- relative to
9 Southern's position and sort of its involvement.

10 So the BREDL claim is basically that it
11 was not provided with, quote, complete engineering
12 analyses or accurate information provided for review
13 by Southern, and that's from their petition at 6. And
14 its FOI request is described in its reply, which is
15 the reply of one no one, seeks access to documents,
16 data, and calculations necessary for review of the LAR
17 regarding seismic gap and any documents, data, and
18 calculations regarding the analysis performed by the
19 NRC audit team.

20 So let me ask you a question first about
21 the Southern February 2nd, 2020 license amendment
22 request. It provides no references in support of the
23 amendment, and that's the enclosure of the LAR that
24 has a discussion at page 14. It has no -- quote-
25 unquote, no references, but it refers to a generic

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1 AP1000 system for ---

2 OPERATOR: Hello, this is the conference
3 operator, you signaled for assistance?

4 JUDGE BOLLWERK: And that's a generic one
5 as well as a site-specific SASSI analyses, including
6 a site-specific analysis that confirmed recent
7 building structure changes do not have a significant
8 impact on a result of the relative displacement
9 between the annex and the auxiliary buildings. And
10 that's the LAR enclosure, the analysis at pages 6 and
11 7. And it also has Vogtle 3 settlement survey data
12 that's referenced, at least made reference to, which
13 is at page 8.

14 So there are those general references to
15 documents that apparently support the position that
16 Southern takes in the license amendment request,
17 although there's no specific citation to them in terms
18 of where they're at or specifically what they are.
19 The staff's 5/26 audit, the May 26th audit report,
20 which is the Enclosure 2 has Table 1, makes reference
21 to six documents that were made available to the NRC
22 staff for review via Southern portal but were not
23 retained by the staff so it's become agency records.
24 Are any of the documents -- the SASSI analyses and the
25 survey data that's referring to the LAR, do those

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1 coincide in any way with those six documents that the
2 staff looked at as part of the audit?

3 MR. BLANTON: Well, that was a long
4 question, Judge.

5 (Simultaneous speaking.)

6 JUDGE BOLLWERK: It's actually a pretty
7 simple one. The LAR makes a couple of references to
8 SASS analyses and also to some survey data. And the
9 audit report on page -- Table 1 has six documents that
10 are listed. I'm just trying to find out if those are
11 the same or different or you don't know.

12 MR. BLANTON: I think if I recall the
13 documents listed on the audit report, it certainly
14 included settlement data. And the NRC has reviewed
15 that and found that to be, I think, at least
16 sufficient for it to continue to review the LAR. The
17 SASSI model itself, I think it's always proprietary to
18 Westinghouse and therefore is not publicly available.

19 I would just suggest and remind everybody
20 that the same condition existed with respect to that
21 SASSI model when NRC accepted it for the purpose of a
22 design certification approval. So it's the same SASSI
23 model that was approved for use by the NRC during the
24 DCD. NRC certainly has access -- NRC staff certainly
25 has access to the results of the model in doing its

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1 review.

2 It's determined that the license amendment
3 itself or license amendment request itself was
4 sufficient for docketing. It's been docketed. The
5 decision has to -- the license amendment is required
6 to be based on docketed information. So if any
7 additional information is necessary, NRC will docket
8 that information before it makes a decision. And that
9 whole process of NRC review is really not at issue
10 here, and it's under Board and Commission and
11 precedent. The NRC staff's review of the license
12 amendment, that process is not subject to challenge
13 here in this license amendment proceeding.

14 JUDGE BOLLWERK: All right. So let me ask
15 you one other question about page 24 of Southern's
16 answer. It has the following statement. However, Mr.
17 Gundersen provides no specific support showing how the
18 SASSI analysis are insufficient, and more importantly,
19 why the SASSI analysis did not support the LAR's
20 conclusion that the gap -- I'm sorry -- that the
21 greater than 1 inch gap between the nuclear island and
22 annex building will still be maintained an SSE, safe
23 shutdown earthquake event.

24 And then in footnote 91 at the end of this
25 sentence, you reference Section 3.7.2.4 of NUREG 2124

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1 which is the staff's final safety evaluation report
2 for Vogtle 3 and 4 of the COLs as crediting Southern's
3 SASSI analysis. And that section of the safety
4 analysis report, the SAR -- I'm sorry -- SER for
5 Vogtle references 2D and 3D SASSI analysis for both
6 the units. And I'm wondering, are any of these
7 documents the documents that are referenced in the LAR
8 that talk about either generic or site-specific SASSI?

9 MR. BLANTON: It is my belief that they
10 are. I need to check with my technical expert
11 probably to confirm that to see if there'd been any
12 changes. But yes, I mean, it's the same SASSI
13 analysis that confirmed that the acceptability of a
14 Vogtle site for the construction of an AP1000 or the
15 SASSI analyses being used to evaluate this license
16 amendment, particularly the 2D one. I don't think the
17 3D one came into play.

18 (Simultaneous speaking.)

19 JUDGE BOLLWERK: All right. And you had
20 mentioned --

21 MR. BLANTON: -- also used the -- if I
22 may, we used both the generic and the site-specific
23 SASSI model.

24 JUDGE BOLLWERK: Right. But you thought
25 the generic ones were proprietary. But I guess the

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1 site-specific ones would be available publicly?

2 MR. BLANTON: No, I think they're both
3 proprietary Westinghouse document.

4 JUDGE BOLLWERK: Okay. One last question.
5 In the SAR -- I'm sorry -- the LAR analysis mentioned
6 settlement survey documents. That's basically all it
7 said. It didn't say exactly what they were. Do you
8 know if those documents are publicly available?

9 MR. BLANTON: They are not at this time.
10 No, sir.

11 JUDGE BOLLWERK: Okay. All right. Thank
12 you very much. At this point, I don't have any more
13 questions for Mr. Blanton. Let me see if either Judge
14 Abreu or Judge Arnold has anything.

15 JUDGE ARNOLD: This is Judge Arnold. I'm
16 going to wait until the end of the parties and then
17 ask my questions.

18 JUDGE BOLLWERK: Okay. That's fine.
19 Judge Abreu?

20 JUDGE ABREU: This is Judge Abreu. I just
21 have a couple little things. Just so I have a full
22 picture of the wall, basically the picture I have is
23 there's just a bulge in the wall on the auxiliary
24 building wall. And I understand it's about 13 feet
25 vertically with it starting a few feet below the top

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1 of the 50-foot wall. I don't have a sense of how far
2 east-west it goes. Is it a real long bulge, or is it
3 just a little bit of a bulge?

4 MR. BLANTON: It probably varies, Judge.
5 I'm not sure I can answer that with a great deal of
6 precision. If you look at the diagram in the license
7 amendment, it shows it starting about halfway down,
8 maybe the annex building and continuing to that
9 corner. So it runs about half the width of the annex
10 building in a horizontal direction that way out.

11 I can certainly find the more precise
12 dimensions of it. And I'd also just note that the
13 relief requested in the LAR is actually more than the
14 actual nonconformance because they tried to bound that
15 nonconformance. So the actual bowing out, if you
16 would, or bulge, it's probably more, like, 11 feet
17 than 13 feet.

18 JUDGE ABREU: Okay. And from what you
19 told us and from what we've seen in the documents, it
20 appears that this is basically just a bulge, that
21 there is no component of wall tilt that is causing the
22 need to request the change in the gap. Is that
23 correct?

24 MR. BLANTON: Yes, that's correct, Your
25 Honor. And just sort of to embellish on that point,

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1 the 3-inch gap is maintained both below and above the
2 bulging area so that logic would tell you if the wall
3 was tilting, the area above the bulge would be closer
4 than where the bulge is or at least closer than the
5 wall is at grade. And right now, they're not.

6 JUDGE ABREU: All right. Thank you.
7 That's all I have at this time.

8 MR. BLANTON: Thank you.

9 JUDGE BOLLWERK: All right. This is Judge
10 Bollwerk. I should mention we've been going about an
11 hour and 20, 25 minutes right now. I believe that's
12 right, about an hour, 20 minutes. Probably we will
13 take a break at some point. I'd like to go ahead and
14 let the staff give its response before we take that
15 break. Would that be acceptable to the staff?

16 MS. EZELL: Yes.

17 JUDGE BOLLWERK: All right. Why don't we
18 go ahead and do that. And maybe what we'll do then is
19 take a break between when the staff give their
20 presentation and when Mr. Zeller has his rebuttal. So
21 people can sort of plan on that coming up, we'll
22 probably take about a 10-minute break. Let people
23 step away and do whatever they might need to do, and
24 then we'll come back. So let me then turn to the NRC
25 staff. Thank you.

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1 MS. EZELL: Thank you. Good morning, and
2 may it please the Board. My name is Julie Ezell, and
3 I, along with my colleague, Michael Spencer, are
4 counsel for the NRC staff. For the reasons outlined
5 in our pleading, the NRC staff position is that while
6 the Petitioner BREDL has demonstrated standing, BREDL
7 has not proffered an admissible contention and
8 therefore the Board should deny the hearing request.

9 I will not repeat the arguments made in
10 our answer but will address the statement in the
11 Petitioner's reply claiming that the staff answer did
12 not provide supporting references showing that dishing
13 was previously analyzed. Contrary to the Petitioner's
14 assertion, the staff has explained that the Vogtle
15 Unit 3 basemat was analyzed for total and differential
16 settlement, which includes the particular settlement
17 scenario the Petitioner refers to as dishing or
18 cupping. The differential settlement can occur when
19 the middle of a foundation settles more relative to
20 the edges of that structure.

21 As described in our pleading and in
22 Section 3.8.5.4.2 of the Vogtle Unit 3 updated final
23 safety analysis report, construction sequence
24 scenarios were analyzed as part of the design of the
25 nuclear island basemat. One of the bounding scenarios

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1 analyzed is a case for the auxiliary building
2 construction is delayed while the shell building
3 construction continues. This bounding case maximizes
4 tension stresses in the bottom of the basemat which
5 would result in the type of differential settlement
6 the Petitioner refers to as dishing.

7 As discussed in the license amendment
8 request, this type of settlement would tend to cause
9 the auxiliary building wall to slightly lean away from
10 the annex building wall. That settlement to date to
11 would tend, if anything, to increase the seismic gap,
12 not decrease it, which shows that the Petitioner's
13 settlement concerns do not raise a genuine dispute
14 with the licensee on a material issue of fact and
15 instead relates to matters already analyzed in
16 previous proceedings rather than a license amendment
17 request at issue in this proceeding.

18 To address BREDL's opening statements
19 about differential settlement, differential settlement
20 is the term used for a condition in which a building
21 support foundation settles in an uneven including
22 nonlinear fashion. As described earlier in our
23 opening, dishing is a particular type of differential
24 settlement that can occur where the middle of the
25 foundation settles more relative to the edges of the

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1 structure. BREDL does not offer any documentary
2 support for its claim that the updated final safety
3 analysis report only analyzed linear settlement and
4 not dishing. This concludes my opening statement, and
5 we are happy to answer any questions the Board may
6 have at this time.

7 JUDGE BOLLWERK: All right. That was
8 pretty short. All right. I did have a couple
9 questions. The first one is a standing question. And
10 I think the staff -- they did cite one of the previous
11 licensing board cases, the Vogtle cases that found
12 standing in a footnote but really have any discussion
13 of them. Given the discussion I've had today with Mr.
14 Blanton about standing, you want to say anything about
15 those cases or about staff's position on standing?

16 MS. EZELL: As described in our answer on
17 page 15, the -- outside the standing discussion, the
18 Petitioner cites concerns with information that it
19 claims is being ignored. And the LAR, the license
20 amendment request, that would increase the likelihood
21 of failure of the basemat and potentially result in
22 release during a seismic event. And these claims are
23 based on the mistaken assumption that the Vogtle Unit
24 3 basemat was not designed and analyzed for total and
25 differential settlement. But for the purposes of

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1 determining standing, we take the Petitioner's claims
2 as true and believe that this position is consistent
3 with the Board's previous cases that you sited
4 earlier.

5 JUDGE BOLLWERK: All right. Well, you
6 mentioned -- let's talk a little bit about document
7 access which I sort of explored a little bit with
8 Southern. And let me pull the right page of paper
9 here. Okay. So I think I heard what Mr. Blanton say
10 was that the documents that are cited in the LAR, and
11 there's reference to a generic SASSI, a site-specific
12 SASSI, and some settlement survey data. At least it
13 was his recollection that that information was not
14 publicly available.

15 And again, the LAR analysis also has a
16 section called references. It doesn't reference
17 anything. So basically what the staff had in front of
18 it as I understand it in their acceptance review was
19 the Vogtle analysis that was presented in that
20 document.

21 And let me take a step back, however, and
22 talk for a second about the audit report. In May
23 2020, the staff issued the audit report regarding
24 whether the documentation and calculations made
25 available by Southern concerning its LAR were

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1 sufficient to provide technical support for the LAR.
2 And if you look at the staff's audit review
3 instruction dated October 2019 -- and again, this is
4 a staff document, I guess an Office of Nuclear Reactor
5 Regulation document. It's LIC-111, revision 9, page
6 9.

7 It indicates documentary material that is
8 part of an audit review should be disclosed in the
9 audit report. And if you look at the audit report,
10 page 8, it indicates that it's acceptable for the
11 staff -- I'm sorry. Also, that current audit review
12 guidance at page 9, I'm referring back to the
13 instructions at page 8, also indicates it's acceptable
14 for the staff to access and review Applicant
15 information via the Applicant portal that does not
16 involve taking possession of the Applicant review
17 documents. Again, that's the staff guidance or
18 instructions that are in LIC-111.

19 The audit report that was done for this
20 particular LAR lists six documents that were reviewed
21 via the Southern portal. Mr. Blanton seemed to think
22 that some of those SASSI and settlement data documents
23 that are referenced in the LAR are part of what the --
24 are part of the six documents that the staff looked at
25 and then references in its audit report. Do you know

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1 if that is or isn't the case?

2 MS. EZELL: If you'll allow me one moment
3 to just consult --

4 JUDGE BOLLWERK: Sure.

5 MS. EZELL: -- with my technical staff.

6 JUDGE BOLLWERK: Just for the record, we
7 probably will go ahead and take a break when the Board
8 is done with questions for the staff.

9 MS. EZELL: Your Honor, it's my
10 understanding that the staff -- the licensee did not
11 make available for audit in the electronic reading
12 room the full analysis, the SASSI analysis. But the
13 staff did audit results of those analyses and did
14 audit settlement data.

15 JUDGE BOLLWERK: And are those among the
16 -- so you're saying you looked at documents, but those
17 are not among the six documents that are listed?

18 MS. EZELL: Those are the six documents
19 that are listed.

20 JUDGE BOLLWERK: Those are among the six
21 documents that are listed?

22 MS. EZELL: Yes. I apologize for the
23 confusion.

24 JUDGE BOLLWERK: All right. So if you
25 look -- and again, it was a separate set of staff

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1 instructions in January 2017 -- in the January 2017
2 staff instructions dealing with whether to accept a
3 license application for a docketing decision. That's
4 LIC-109, revision 2, appendix B at page 9 indicates
5 that the application must be complete in scope such
6 that there is no significant analyses or evaluations
7 missing from the application and the information and
8 analyses provided in support of the application must
9 not evidence any significant or obvious problems.

10 It also indicates that if the scope of the
11 application is incomplete or the information is
12 insufficient, the application must be considered
13 unacceptable such that it should be returned to the
14 Applicant or an additional opportunity provided to
15 supplement the application for docketing. If on the
16 other hand the application is not acceptable for
17 docketing, the instructions indicate that a
18 determination should be documented in an email or
19 letter that indicates that the staff found the
20 application provides, quote, technical information and
21 sufficient detail to enable the staff to complete a
22 detailed technical review and make an independent
23 assessment regarding the acceptability of the proposed
24 amendment in terms of regulatory requirements and the
25 protection of public health and safety and the

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1 environment.

2 And that is, again, from LIC-109 and seen
3 at page C-9. And this is essentially the findings the
4 staff made in its February 21st, 2020 acceptance
5 review email to Southern at page 2. So my question,
6 given that background, so in making the staff's
7 acceptance review finding, did the staff review any
8 Southern documentation via a portal or otherwise other
9 than the analysis in the February 7, 2020 LAR itself?

10 MS. EZELL: And just to clarify, Your
11 Honor, as part of the acceptance review for --

12 (Simultaneous speaking.)

13 JUDGE BOLLWERK: It's part of the
14 acceptance review, right. Clearly in an acceptance
15 review, you had the license application in front of
16 you. Is there any other Southern documentation via
17 portal or otherwise that the staff used to review the
18 Southern application?

19 MS. EZELL: No, Your Honor. There was
20 not.

21 JUDGE BOLLWERK: Okay.

22 MS. EZELL: The NRC staff based its
23 determination of acceptance for docketing on the
24 information contained in the license amendment request
25 that's publicly available.

1 JUDGE BOLLWERK: Okay, good. Thank you.
2 I appreciate that information. All right. I'll just
3 note for the record that in contrast to the license
4 review instructions that dealt with the audit, nothing
5 in the acceptance review instructions -- which are the
6 LIC-109 as opposed to LIC-111 which are the audit
7 instructions. Nothing in the acceptance review
8 instructions authorizes the staff to consider
9 nonpublic information not in the possession of the
10 agency in making its acceptance review.

11 Indeed, the acceptance instructions of
12 page 6 indicate that any information deficiency is to
13 be cured by contacting the licensee or Applicant to
14 communicate the information needed to understand their
15 course of action, establishing a date-specific
16 deadline by which the licensee or applicant must
17 submit the information and issuing a letter to
18 licensee or Applicant, identify the information needed
19 and the verbally established deadline. And what you
20 just told me is you did not do any of that because you
21 found license application audit space to be
22 sufficient.

23 MS. EZELL: That is correct, Your Honor.

24 JUDGE BOLLWERK: All right. Thank you.
25 That's all the questions I have for the staff at this

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1 point. Is there anything that either Board members
2 have?

3 JUDGE ARNOLD: No, Judge Arnold.

4 JUDGE ABREU: And this is Judge Abreu. I
5 have nothing else at this time.

6 JUDGE BOLLWERK: All right. Right now, I
7 have 35 after the hour. Why don't we go ahead and
8 take a 10-minute break so that we'll reconvene at a
9 quarter to 12:00, 11:45. And if anybody is having any
10 connectivity questions or problems, now would be the
11 time to talk with our staff while we are taking the
12 break.

13 Be aware that this will remain an open
14 line. So if you're on a speaking line and you say
15 anything or make any noise, it will be heard by those
16 who are on the listen-only lines as well as those
17 folks that are on the call. So my suggestion would be
18 to obviously mute yourself, and we'll be back in 10
19 minutes. Thank you.

20 (Whereupon, the above-entitled matter went
21 off the record at 11:37 p.m. and resumed at 11:46
22 a.m.)

23 JUDGE BOLLWERK: This is Judge Bollwerk.
24 We've taken a short break, and we're going to continue
25 now with the oral argument. I did have one other

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1 question for the staff. Let me just briefly say it.
2 Mr. Zeller described the status of the BREDL FOIA
3 request. I take it that was accurate from your
4 perspective. Anything else you want to say about
5 that?

6 (No audible response.)

7 JUDGE BOLLWERK: Staff there?

8 MS. EZELL: I apologize. Could you repeat
9 the question?

10 JUDGE BOLLWERK: Sure. Mr. Zeller talked
11 about the status of the FOIA request that BREDL has
12 pending. Was that accurate from your perspective?
13 Anything further you want to say about that?

14 MS. EZELL: Yes, Your Honor. That is
15 accurate as far as I understand. That is being
16 handled via separate agency process, and I understand
17 that the FOIA coordinator has been communicating with
18 Mr. Zeller on that matter.

19 JUDGE BOLLWERK: All right. Okay. Well,
20 then we're ready for Mr. Zeller's rebuttal argument,
21 and I think that then we will have some additional
22 questions for all the participants from the Board
23 members. So Mr. Zeller?

24 MR. ZELLER: Yes. Thank you, Judge
25 Bollwerk. This is Lou Zeller. How long -- do I have

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1 10 minutes, or how long --

2 JUDGE BOLLWERK: Approximately. I think
3 you're certainly in that -- yeah, I think that's
4 correct, yes. It's what you reserved. I don't think
5 you took more than 20 minutes to begin with, so you're
6 good.

7 MR. ZELLER: Thank you, sir. All right.
8 Regarding Southern Nuclear, Mr. Blanton, his
9 interpretation of the license amendment request
10 seeking a reduction of 3 inches to 2 inches and 16
11 inches -- 2-and-1/16th and the 1 inch not being
12 accurate, I believe we're getting into the weeds. And
13 I believe that with the very good information to have
14 the experts arguing directly about that, I'm not
15 sidestepping the issue. I'm just saying that we're
16 talking about depth and inches and prose
17 interpretations of those engineering questions which
18 are difficult to deal with in this kind of format for
19 sure.

20 I do think that we have reasonable doubt
21 about this procedure. That's Mr. Gundersen, I
22 believe, reading into this. Okay. Sorry, Judge. But
23 we have raised reasonable doubt, and the burden of
24 proof is upon the license requestor. The standing and
25 the consequences raised by Mr. Blanton, consequences

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1 for individuals, I think we have provided additional
2 information today which goes to the direct impact on
3 residents of the Shell Bluff community. So I think we
4 have dealt with that in today's oral argument.

5 MS. MAYHALL: Excuse me. I'm sorry to
6 interrupt. This is Taylor. I just wanted to let you
7 know that Arnold Gundersen's line has dropped. He's
8 no longer on the call.

9 JUDGE BOLLWERK: All right. This is Judge
10 Bollwerk. Why don't we take a brief break and
11 everyone should stay on the line obviously. But we'll
12 go off the record. And maybe, Mr. Zeller, do you want
13 to contact Mr. Gundersen and see if you can get him
14 back on or we'll wait a second and see if he
15 reappears?

16 MR. ZELLER: Yes, sir.

17 JUDGE BOLLWERK: I don't want to -- unless
18 you want to go ahead without him on. But my
19 assumption is you prefer to have him there.

20 MR. ZELLER: I need a question answered
21 from him directly. Yes, sir.

22 JUDGE BOLLWERK: Okay. Well, we'll go off
23 the record then, and perhaps you can attempt to
24 contact him or hopefully he'll show up again.

25 MR. ZELLER: Yes.

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1 JUDGE BOLLWERK: All right. So let's take
2 a break. And Taylor, please let us know if Mr.
3 Gundersen appears again.

4 MS. MAYHALL: Will do.

5 JUDGE BOLLWERK: Thank you. All right.
6 Let's go off the record.

7 (Whereupon, the above-entitled matter went
8 off the record at 11:51 a.m. and resumed at 11:54
9 a.m.)

10 JUDGE BOLLWERK: So Mr. Gundersen has
11 rejoined the conference call, and we're going to go
12 ahead and proceed with Mr. Zeller's argument. Mr.
13 Zeller?

14 MR. ZELLER: Yes. Sorry, Judge Bollwerk.
15 I had us muted.

16 JUDGE BOLLWERK: Mr. Zeller?

17 MR. ZELLER: Yes, Judge.

18 JUDGE BOLLWERK: Whenever you're ready to
19 proceed.

20 MR. ZELLER: I'm not quite ready.

21 JUDGE BOLLWERK: Okay.

22 (Pause.)

23 JUDGE BOLLWERK: While we're waiting for
24 Mr. Zeller, Mr. Blanton, you indicated that there
25 might be a couple of things you wanted to provide

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1 Board some initial confirmation about?

2 MR. BLANTON: I did, before we started,
3 Judge. But I think between the argument and the
4 question and answer, I told you about all I know.

5 JUDGE BOLLWERK: Okay. That's fine.
6 Appreciate the information then. All right. Okay.
7 Mr. Zeller, are you ready?

8 MR. ZELLER: Yeah, this is Lou Zeller.
9 Judge Bollwerk, I'll do the best I can without Mr.
10 Gundersen.

11 JUDGE BOLLWERK: He's connected on the
12 line, but I guess he's not connected directly to you
13 I take it. That's your concern?

14 MR. ZELLER: He's not responding, and
15 there's no meaningful response coming from Gundersen
16 at this point. I've tried --

17 JUDGE BOLLWERK: Okay.

18 MR. ZELLER: -- everything I can --

19 JUDGE BOLLWERK: Okay.

20 MR. ZELLER: -- through backchannel and
21 others. I apologize for this.

22 JUDGE BOLLWERK: It's not a problem.

23 MR. GUNDERSEN: Your Honor, I am on. Lou,
24 I am on. I will go back on mute.

25 MR. ZELLER: Arnie, if you can hear me,

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1 raise your hand.

2 JUDGE BOLLWERK: Check the chat. I take
3 it, Mr. Zeller, you all are trying to make your
4 backchannel connection. Is that the problem?

5 MR. ZELLER: That's correct, Judge
6 Bollwerk.

7 (Pause.)

8 MR. ZELLER: Aha.

9 JUDGE BOLLWERK: Sounds like good news.

10 MR. ZELLER: Yes, I think so. Okay. In
11 response -- well, okay, let me pick up where I left
12 off. This is Lou Zeller. Regarding Mr. Blanton's
13 questions about dishing, we did bring up three
14 references in our petition and on our replies
15 regarding structural problems associated with dishing.
16 And so I think we've done our diligence there to show
17 that there's a unanalyzed safety condition brought
18 about by the dishing which is, at this point, I think
19 everyone agrees is happening there. At least it's
20 admitted into the docket.

21 What we have with the Applicant is a
22 theory. They say that theoretically, this suggests
23 that the nuclear island tends to tilt away from the
24 annex building. To me, that nails -- that lands in
25 the -- is that a theory from the other side is the

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1 analysis calling for. The analysis we're calling for
2 is actual reevaluation of the structural integrity of
3 the entire nuclear island, a complete root cause
4 analysis of the new stress design basemat nuclear
5 island in Vogtle Unit 3, to present the complete
6 analyses and root cause analysis information to the
7 public in hearings and an entirely new license review
8 and full analysis of the new stress conditions placed
9 on the components, the site, systems, structures of
10 components on the site that are no longer level as a
11 result of disproportionate sinking that has been --
12 that we have -- that has occurred with the basemat.

13 Regarding Ms. Ezell's question from the
14 Nuclear Regulatory Commission, she says the difference
15 of settlement and bounding scenarios cover nonlinear
16 changes. I hear from our expert that it's impossible
17 to monitor conditions ahead of time. Dishing can't be
18 bounded. Dishing needs to be modeled based on site-
19 specific conditions, not generic assumptions from 2012
20 which are provided by the other side. Okay.

21 Again, Southern Nuclear relies on a
22 generic bounding analysis and linear interpolation.
23 And according to the information in our hands, this
24 assumes a level foundation, a flat foundation, if not
25 level, and not a curved situation which is Vogtle Unit

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1 3 in the basemat as referred to as dishing for which
2 Southern has a theory that suggests the nuclear island
3 tilts away from the annex building.

4 I would conclude with this, that the
5 Petitioner would place before this Board the safety
6 culture policy statement which states that problem
7 identification and resolution issues potentially
8 impacting safety are properly identified, fully
9 evaluated, promptly addressed, and corrected
10 commensurate with their significance and not a
11 questioning attitude, avoid complacency, and
12 continuously challenge existing conditions and
13 activities in order to identify discrepancies that
14 might result in error or inappropriate action. Judge
15 Bollwerk, I believe that's all I have for today.
16 Thank you very much.

17 JUDGE BOLLWERK: All right. Thank you,
18 Mr. Zeller. Well, just before we finish the argument
19 portion, I don't have any questions at this point.
20 But I believe perhaps the other two Board members may,
21 so let me turn to Judge Arnold or Judge Abreu. Who'd
22 like to start?

23 JUDGE ABREU: I'll defer to --

24 JUDGE BOLLWERK: Judge Arnold, I know you
25 said you had some questions.

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1 JUDGE ARNOLD: Yes, I'll start then. And
2 this is -- my first question is for BREDL. Now on
3 page 7 of your petition, you state, quote, the NRC has
4 no intention of providing the public and BREDL with
5 any additional information about the dangers of
6 dishing that is occurring in the Vogtle Unit 3
7 foundation, unquote. Now since the discussion of
8 dishing and settlement contained in the LAR
9 demonstrates that dishing does not contribute to the
10 gap reduction and because your petition has not
11 referenced, addressed, nor challenged that discussion,
12 how is additional information concerning dishing
13 within the scope of this proceeding?

14 MR. ZELLER: This is Lou Zeller. We asked
15 -- from the beginning before filing the petition even,
16 we were requesting information which apparently could
17 not be provided. And we've gone into that in terms of
18 the Westinghouse reading room. And so we did move to
19 another means for getting information which was from
20 a Freedom of Information Act request.

21 But we are seeking further information,
22 information which was used to make the decisions by
23 the Nuclear Regulatory Commission about the situation
24 with the license amendment request based on
25 information which we could not view. So that, I

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1 believe, is where some of the problem lies in terms of
2 defining what's happened, what has been done, what has
3 not been done, and who did it.

4 JUDGE ARNOLD: Essentially, the discussion
5 in the LAR showing that the dishing does not
6 contribute to the gap reduction is basically an
7 argument saying that the nuclear island settling is
8 not within the scope of this license amendment. And
9 you have not challenged that argument. So I am
10 confused as to how you can request in this proceeding
11 something that is not related to this proceeding.

12 MR. ZELLER: This is Lou Zeller. The
13 license amendment request brought up the dishing.

14 JUDGE ARNOLD: Yes, and it demonstrated
15 that dishing is outside the scope of this proceeding.

16 MR. ZELLER: This is the crux of the
17 dispute, Judge Arnold.

18 JUDGE ARNOLD: But you didn't dispute it,
19 though. You did not challenge the license amendment
20 request discussion of dishing, neither in your
21 petition nor in Mr. Gundersen's statement. So how now
22 do you decide that is within the scope?

23 MR. ZELLER: Through the -- again, this is
24 Lou Zeller. This comes from the statement in the
25 license amendment request that theoretically

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1 suggesting that the nuclear island tends to tilt away
2 from the annex building. So that, again, goes back to
3 the license amendment request and the very thin
4 covering of the dishing question with a theory.

5 JUDGE ARNOLD: It is a theory that you
6 didn't challenge in your petition.

7 MR. ZELLER: Well, I apologize, Judge
8 Arnold. I believe that in our exposition of the facts
9 that we were. If I fell short in some way, I did not
10 mean to. We are talking about what is on the record
11 in terms of the license amendment request and the
12 statements of the Applicant --

13 JUDGE ARNOLD: I'm going to move on.

14 MR. ZELLER: -- which we dispute. I'm
15 here to tell you.

16 JUDGE ARNOLD: On page 8 of your petition,
17 you say, quote, SNC notified the NRC on February 7th,
18 2020 that it was seeking a license amendment due to
19 the discovery that walls and the entire foundation of
20 the auxiliary building had inexplicably moved, sunk,
21 and become distorted. Now this sentence effective
22 attributes the conclusion that the walls have moved,
23 sunk, and become distorted to Southern Nuclear. But
24 you don't cite where they say that. So can you tell
25 me where do you get that information from?

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1 MR. ZELLER: That was provided by Arnold
2 Gundersen in his declaration supporting the petition
3 for intervention and the hearing.

4 JUDGE ARNOLD: Well, he also doesn't cite
5 to this source of that information. So I'm at a
6 quandary. Okay. Let me go on. In paragraph 29 on
7 page 12 of Arnold Gundersen's declaration, he states,
8 quote, Southern Nuclear Operating Company has alleged
9 that a single concrete wall that is a critical part of
10 the structural integrity of the entire reactor unit
11 has moved of its own accord. Can you tell me where
12 Southern Nuclear states this?

13 MR. ZELLER: Pardon me. Judge Arnold, the
14 declaration discuss dishing extensively.

15 JUDGE ARNOLD: So we're going back to the
16 previous question. Can you tell me where in that
17 dishing discussion it addresses Southern Nuclear's
18 evaluation?

19 MR. ZELLER: It's, I believe, based on
20 reading the license amendment request based on a
21 poorly worded license amendment request about the
22 bulging discussed today.

23 JUDGE ARNOLD: I read his discussion, and
24 I haven't seen where he clearly addressed the Southern
25 Nuclear discussion of dishing and it would move the

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1 walls apart.

2 MR. ZELLER: Sorry, Judge Arnold. I'm
3 trying to reflect what Mr. Gundersen is telling me,
4 and it's been very difficult. I believe that question
5 would be properly put in terms of citations and
6 sources of information for the walls that have settled
7 and sunk and are sinking to Mr. Gundersen as part of
8 -- if not in this proceeding, then part of an
9 evidentiary proceeding during which we could air some
10 of these questions and provide the information that
11 you are asking me for which I'm scuttling to find
12 answers for.

13 JUDGE ARNOLD: I'm just pointing out you
14 haven't challenged -- you have not directly challenged
15 the Southern Nuclear's evaluation that dishing would
16 cause the walls to move apart. But let me go on with
17 my next question. In Mr. Gundersen's declaration,
18 paragraph 29.1 states, quote, Southern Nuclear claims
19 this solid concrete wall is leaning because the
20 foundation under it is sinking. Now I also cannot
21 find that in the LAR. So what is the source of that
22 information that Southern Nuclear that it's leaning
23 because the foundation is sinking?

24 MR. ZELLER: Paragraph 29.1 is where
25 Gundersen discusses the wall, one side of which is

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1 under compression and one side is under tension,
2 correct? Concrete can be shaped and molded. It is
3 not an effective structural member when it's placed
4 under tension.

5 JUDGE ARNOLD: Well, I'm just saying in
6 there, he states that Southern Nuclear claims that the
7 wall is leaning because the foundation is sinking.
8 What is the basis of that statement? Where does
9 Southern Nuclear claim that the foundation is sinking?

10 MR. ZELLER: SNC claims the solid concrete
11 wall is leaning because the foundation under it is
12 sinking.

13 JUDGE ARNOLD: That is what your expert
14 says, but he doesn't cite to where Southern Nuclear
15 has said that the foundation under it is sinking.

16 MR. ZELLER: I think the question goes to
17 the admission by Southern that there is more settling
18 at one part of the basemat than another part of the
19 basemat which is the definition of dishing or sinking.

20 JUDGE ARNOLD: But you see, there's a
21 difference between you as the Petitioner saying that
22 this is caused by sinking and Southern Nuclear saying
23 the wall is leaning because the foundation is sinking.
24 In your statement, you keep saying repeatedly that
25 Southern Nuclear has taken the position that the wall

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1 is leaning because the foundation is sinking, and I
2 have not found that anywhere in the license amendment.
3 So whose information is this? Did it come from
4 Southern Nuclear, or is it something that came from
5 Arnold Gundersen's evaluation?

6 MR. ZELLER: I'm checking. Arnie, are you
7 there?

8 JUDGE ARNOLD: While we're waiting, let me
9 ask Mr. Blanton, Southern Nuclear. Are you aware of
10 any place where Southern Nuclear claims that the solid
11 concrete is leaning because the foundation under it is
12 sinking?

13 MR. BLANTON: Stan Blanton for Southern
14 Nuclear. No, I'm not aware of that. I think the LAR
15 takes exactly the opposite position on that.

16 JUDGE ARNOLD: I have cited to several
17 places where the petition or Mr. Gundersen's
18 declaration have said that Southern Nuclear has taken
19 the position the wall has moved. Would you say all of
20 those statements are really not attributable to
21 Southern Nuclear?

22 MR. BLANTON: Yes, sir. I would.

23 JUDGE ARNOLD: Okay. Let me go back to
24 Mr. Zeller. Is there any answer yet?

25 MR. ZELLER: I'm working on it, Judge.

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1 (Pause.)

2 JUDGE ARNOLD: Let me ask you my next
3 question because that may clear up some of this. On
4 page 11 of your petition, you contradict Mr. Gundersen
5 and say, quote, the position taken by SNC throughout
6 the license amendment request is that there is an as-
7 built reduction in the distance between the walls.
8 Now would I be correct in assuming that I should
9 believe your petition rather than your expert?

10 MR. ZELLER: I'm sure there's no dispute
11 between us and our expert, Judge. The license
12 amendment request discusses sinking foundation and
13 out-of-tolerance wall.

14 JUDGE ARNOLD: Well, certainly it does
15 mention the settling of the foundation, but he doesn't
16 attribute the movement of the wall to the settling of
17 the foundation. Let me just assume that you don't
18 have an immediate answer to that.

19 MR. ZELLER: I don't have a page number
20 here, but we're working as best we can with this
21 system. But the LAR discussed sinking foundation and
22 an out-of-tolerance wall. And what page that -- or
23 the cite for that, I can provide to you. But I don't
24 have it right here.

25 JUDGE ARNOLD: Okay. In paragraph 30 on

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1 page 13 of his declaration, Mr. Gundersen states,
2 quote, Southern Nuclear Operating Company knows that
3 the nuclear island has departed from its design
4 conditions and is no longer level. Now how does Mr.
5 Gundersen know exactly what Southern Nuclear knows?
6 Does he have a citation to that somewhere?

7 MR. ZELLER: He went on to say that using
8 the generic SASSI bounding analysis and linear
9 interpolation are complete inappropriate.

10 JUDGE ARNOLD: Well, in his statement,
11 he's attributing some knowledge to Southern Nuclear.
12 And I'm just wondering how he knows what Southern
13 Nuclear is thinking if they haven't stated it in the
14 LAR. Well, my last few questions are for Southern
15 Nuclear, Mr. Blanton. Is the Vogtle 3 site currently
16 considered to be a construction site?

17 MR. BLANTON: Stan Blanton for Southern
18 Nuclear. Yes, Your Honor. I would say so, yes.

19 JUDGE ARNOLD: Are most of the activities
20 going on there construction activities as opposed to
21 operating activities?

22 MR. BLANTON: The way I would characterize
23 it, Judge, is that construction is ongoing and there
24 are preparations ongoing for operation. But the plant
25 is not operating.

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1 JUDGE ARNOLD: Okay. And is reconciling
2 as-built configurations with ITAAC criteria considered
3 to be a construction-related activity?

4 MR. BLANTON: I believe so. Yes, sir.

5 JUDGE ARNOLD: At what time in the future?
6 Is there some event at which time Vogtle 3 site will
7 no longer be considered a construction site and would
8 be considered an operating plant?

9 MR. BLANTON: I would say when the NRC
10 makes its 52.103(g) determination that all ITAAC had
11 been met and authorizes loading of fuel, we'll at that
12 point convert from a construction site to an operating
13 site.

14 JUDGE ARNOLD: Okay. Thank you. I have
15 no more questions.

16 JUDGE BOLLWERK: Judge Abreu?

17 JUDGE ABREU: My questions have been
18 answered. Thank you.

19 JUDGE BOLLWERK: All right. I did have
20 one question for Mr. Blanton. If I misunderstood Mr.
21 Zeller, he should correct me or Mr. Blanton can
22 correct me. But Mr. Zeller made a statement during
23 his rebuttal that this really can't be bounded, that
24 the bounding analysis you're using is not appropriate.
25 Do you want to respond to that?

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1 MR. BLANTON: I'm not sure I even
2 understand the point, Your Honor. Are you talking
3 about the bounding analysis we use to take the
4 stiffness of the turbine building first bay wall and
5 compare it to the analysis used to determine the
6 stiffness of the annex building wall?

7 JUDGE BOLLWERK: Let me go back to Mr.
8 Zeller, maybe get him to clarify what he meant if I'm
9 misunderstanding.

10 MR. ZELLER: Yes, this is Lou Zeller. And
11 what I've been told by Mr. Gundersen is that the
12 bounding analysis cannot be done in this kind of
13 situation. And I would leave it to the mathematicians
14 to go further about that.

15 MR. BLANTON: Your Honor, Stan Blanton.
16 There's not enough in that for me to respond to. I
17 just don't know what he's referring to. I mean --

18 JUDGE BOLLWERK: All right.

19 MR. BLANTON: -- the LAR is based on an
20 evaluation of the stiffness of the opposing walls. It
21 includes the settlement evaluation to basically
22 exclude it as a factor in the safety evaluation of the
23 license amendment request. So those two things are
24 what the LAR is based on. I'm not sure what bounding
25 analysis Mr. Zeller or Mr. Gundersen are referring to.

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1 JUDGE BOLLWERK: All right. Thank you.
2 Is there anything the staff wants to say in that
3 regard?

4 MS. EZELL: If I may have just a moment to
5 consult with my technical staff.

6 JUDGE BOLLWERK: Yes.

7 MS. EZELL: Thank you.

8 (Pause.)

9 MS. EZELL: Thank you for your indulgence
10 for the time. We're not exactly sure to what the
11 Petitioner refers, but the bounding case is discussed
12 in Section 3.8.5.2 -- 4.2 of the UFSAR are intended to
13 maximize the tension stresses in the basemat. And the
14 licensee settlement monitoring program continuously
15 monitors settlement data to ensure that the basemat --
16 the settlement experienced by the basemat remains
17 bounded by the Tier 1 values described in Table 5.0-1
18 for total and differential settlement.

19 JUDGE BOLLWERK: All right. Thank you.
20 At this point, I think, unless any of the parties have
21 something they want to let the Board know, I think,
22 Judge Arnold, you had no further questions?

23 JUDGE ARNOLD: That is correct.

24 JUDGE BOLLWERK: All right. Judge Abreu?

25 JUDGE ABREU: I have no more questions.

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1 JUDGE BOLLWERK: All right. Well, under
2 the agency's regulations, Section 2.309(j) (1) with the
3 holding of this oral argument pre-hearing conference,
4 we now have 45 days to issue a decision. That would
5 be, if I'm counting right, approximately the 14th of
6 August. So that would be our goal.

7 Potentially, we can do better than that,
8 but we'll have to see. But that would be obviously
9 the outside date by which we would need to issue
10 something or to advise the parties that we need
11 additional time. So we will be working towards that
12 goal.

13 On behalf of the Board, I want to thank
14 both BREDL and the staff and Southern for the
15 presentations today. I know this is a difficult time.
16 Not only do you have to deal with the pandemic. But
17 getting ready to present an argument in this case, I
18 think the information you provided us was useful. And
19 again, I want to thank you for making yourselves
20 available. I probably should've asked at the
21 beginning. I'm assuming everyone is healthy and hope
22 you will remain so, safe and healthy.

23 It would normally not be my intention to
24 do transcript corrections unless we read the
25 transcript and find something inordinately wrong.

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1 This is not an evidentiary hearing. It's an oral
2 argument. But I would urge the parties when the
3 transcript is available hopefully next week, that you
4 take a look at it quickly.

5 If there's something you see that you
6 think definitely needs to be corrected, please contact
7 the Board to file a motion with us and let us know
8 that you think transcript corrections would be
9 appropriate. We'll do the same thing, and we may be
10 getting back to you obviously if we see some issues.
11 But we'll probably -- we'll see how the transcript
12 reads and what the situation is after we've reviewed
13 it. At this point, Judge Arnold, anything further you
14 have to offer for the parties?

15 JUDGE ARNOLD: No, I have nothing further.

16 JUDGE BOLLWERK: All right. Judge Abreu?

17 JUDGE ABREU: I have nothing further.

18 JUDGE BOLLWERK: All right then. Well,
19 again, on behalf of the Board, we very much appreciate
20 you making yourselves available to us. Let me just
21 check. Anything from BREDL's perspective at this
22 point you need to tell the Board?

23 MR. ZELLER: This is Lou Zeller. Thank
24 you, Judge Arnold. Thank you, Dr. Abreu.

25 JUDGE BOLLWERK: All right.

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1 MR. ZELLER: I'm just checking.

2 MR. BLANTON: Anything from Southern?

3 MR. ZELLER: I'm just checking. I
4 appreciate your allowing us to make this presentation
5 today.

6 JUDGE BOLLWERK: And we very much
7 appreciate you making yourselves available. I know
8 it's not easy. Anything from Southern's perspective
9 we need to know?

10 MR. BLANTON: Stan Blanton, Judge. No,
11 sir. Thank you for your time.

12 JUDGE BOLLWERK: All right. And NRC
13 staff?

14 MS. EZELL: This is Julie Ezell. I have
15 nothing further to add. Thank you very much for your
16 time.

17 JUDGE BOLLWERK: All right. Well, again,
18 everyone please stay safe and healthy. And if there's
19 nothing further, then we will consider this pre-
20 hearing conference and all argument to be adjourned.
21 Thank you.

22 (Whereupon, the above-entitled matter went
23 off the record at 12:33 p.m.)

24

25