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1 P-R-O-C-E-E-D-I-N-G-S

2 10:01 a.m.

3 CHAIRMAN RYERSON: Good morning. This is
4 Judge Ryerson. Let's go on the record.

5 (Off the record discussion.)

6 Judge Ryerson. We're here on the matter
7 of GE-Hitachi Global Laser Enrichment, LLC. And as I
8 said, this is Judge Paul Ryerson. I'm here with Judge
9 James Jackson and Judge Michael Garcia and also with
10 our law clerk, Ms. Wen Bu.

11 Let's if we can just have the parties
12 introduce themselves and indicate who the principal
13 speaker will be for each side.

14 MS. SAFFORD: Good morning. This is
15 Carrie Safford. I'm with NRC staff. I'll be the
16 principal speaker. I'm also here with Marcia Simon
17 and Catherine Scott of OGC. And I also have Timothy
18 Johnson and Diana Diaz-Toro from FSME.

19 CHAIRMAN RYERSON: Okay. And for the
20 Applicant.

21 MR. SILVERMAN: This is Don Silverman from
22 the law firm of Morgan Lewis representing the
23 Applicant. I will be the principal speaker. I'm here
24 with Julie Oliver who is the GLE Manager of Licensing
25 and Regulatory Affairs and Jerry Head who is the

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1 General Manager of Regulatory Affairs. And one of my
2 colleagues from Morgan Lewis, Martin O'Neill, may be
3 on the line at a different location.

4 MR. O'NEILL: Yes, I'm on the call, Don.

5 MR. SILVERMAN: Thank you.

6 CHAIRMAN RYERSON: Okay. Thank you.

7 We also made available to the public the
8 opportunity to participate in a listen-only mode. As
9 far as I know, no members have availed themselves of
10 that opportunity. But you should be aware that
11 someone may be listening from the public.

12 The purpose of this call as we indicated
13 in our order is to develop a scheduling order or what
14 appears to be an uncontested mandatory hearing. And
15 we put forward a number of questions that occurred to
16 us on that subject. And I propose unless, Mr.
17 Silverman or Ms. Safford, you have anything you'd like
18 to say that we'd go right to those questions.

19 MS. SAFFORD: That's fine with us, Your
20 Honor.

21 MR. SILVERMAN: This is Don Silverman.
22 That's fine, Your Honor.

23 CHAIRMAN RYERSON: Okay. Well, the first
24 question relates again to timing and I guess the
25 latest word we had from the staff was that the SER

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1 would be most likely out in December of this year and
2 the FEIS in February of next year. Is that still your
3 best guess?

4 MS. SAFFORD: Yes. That's still -- This
5 is Carrie Safford. That is still our estimate for
6 issuance of the documents.

7 CHAIRMAN RYERSON: Okay.

8 MS. SAFFORD: Correct.

9 CHAIRMAN RYERSON: Any -- I know this is
10 perhaps difficult, but any sense of the confidence
11 limits in those estimates? They're pretty firm or
12 still subject to change?

13 MS. SAFFORD: No, we're pretty firm on
14 those dates.

15 CHAIRMAN RYERSON: Okay. Great. Great.
16 Well, we will not ask for monthly reports or anything
17 like that on your status. If that is going to -- If
18 either of those dates is going to change, please file
19 something so that everyone knows that. But we'll
20 assume unless we hear from you that those dates are
21 reasonably firm.

22 I think any earlier projection had the SER
23 as December 31st. Is that more likely than earlier in
24 December?

25 MS. SAFFORD: Yes, Your Honor. I believe

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1 that's still the target.

2 CHAIRMAN RYERSON: Okay.

3 When those documents are available, is
4 there any mechanical difficulty in making maybe four
5 hard copies available to the Board as well as
6 electronic copies?

7 MS. SAFFORD: This is Carrie Safford.
8 That should be no problem at all. It might turn out
9 that the electronic copies come out first and then
10 within a few days once we get the hard copies from
11 Publishing we'll provide those.

12 CHAIRMAN RYERSON: That would be fine.

13 MS. SAFFORD: And you'd like four copies
14 of each?

15 CHAIRMAN RYERSON: Four copies of each
16 would be fine.

17 MS. SAFFORD: Okay.

18 CHAIRMAN RYERSON: Yes. Okay.

19 Well, that takes us to question two. It
20 sounds like these documents are coming out within
21 about two months of each other. And in those
22 circumstances does anyone see a reason to consider
23 bifurcation of the safety and NEPA aspects of a
24 mandatory hearing?

25 MS. SAFFORD: This is Carrie Safford for

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1 NRC staff and we don't see any need to bifurcate with
2 the two months difference.

3 CHAIRMAN RYERSON: Okay. Mr. Silverman,
4 do you agree with that?

5 MR. SILVERMAN: Absolutely, Your Honor.

6 CHAIRMAN RYERSON: Okay. All right.

7 Now assuming that the SER then precedes
8 the FEIS, would it make sense nonetheless for the
9 Board to assuming it has questions want to begin with
10 written questions which I think is the way we would
11 envision this process? Would it make sense to begin
12 with written questions on the SER and not wait for the
13 FEIS?

14 MS. SAFFORD: This is Carry Safford and I
15 have spoken with our staff and we agree that that
16 would be a fine approach.

17 CHAIRMAN RYERSON: Okay.

18 MS. SAFFORD: We could -- Yes.

19 CHAIRMAN RYERSON: And again, Mr.
20 Silverman, you would agree with that?

21 MR. SILVERMAN: Yes, Your Honor. We think
22 that's the most efficient and advantageous way to
23 proceed for all the parties.

24 CHAIRMAN RYERSON: Okay. Well, we're
25 moving along quickly.

1 Question four, as you all know, the
2 hearing notice has a number of very specific
3 scheduling milestones in it. Many of them clearly
4 contemplate a contested hearing, not an uncontested
5 hearing, including probably the bottom line estimate.
6 I think the Commission has in the hearing notice asked
7 the Board to conclude proceedings before us within 28
8 and a half months of the notice.

9 Given that this is an uncontested hearing
10 -- and I'll direct this question first to Mr.
11 Silverman -- what do you think the target should be
12 for an initial decision from the Board?

13 MR. SILVERMAN: Your Honor, we actually
14 have put together just internally some recommendations
15 along those lines and we would be prepared to provide
16 that to the Board for consideration. And we have
17 shared it with staff for them to think about.

18 We'd like to -- We think that it's
19 achievable to try to work towards a Commission
20 decision within about 20 months of the date of the
21 hearing order which would mean a decision by the Board
22 perhaps about -- bear with me one second -- August
23 2011. And we'd be prepared to forward that for your
24 consideration. We've broken it down by the various
25 dates of this what we think the key steps in the

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1 process are. So, in other words, we think that the
2 Board can probably proceed on this more promptly than
3 the milestones would provide for a contested
4 proceeding.

5 CHAIRMAN RYERSON: Yes. In other words,
6 if you're talking August that would be perhaps six
7 months after the EIS, the FEIS.

8 MR. SILVERMAN: That's about exactly
9 right.

10 CHAIRMAN RYERSON: Yes.

11 MR. SILVERMAN: And assisted with some of
12 the Commission guidance. And the way we sort of
13 proposed it, it would be to a final Commission
14 decision assuming the Commission didn't take review
15 about a 20 month schedule overall, again from the date
16 of the hearing notice.

17 CHAIRMAN RYERSON: All right. All right.
18 Okay. Well, I mean I think our goal is to get a
19 scheduling order out reasonably promptly. But I think
20 it certainly would be helpful to see that document.
21 So, by all means, do file that and we'll take a look
22 at it.

23 I think as we go through some of these
24 questions we can perhaps share our initial thinking
25 about the type of process that might be efficient. I

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1 think we were basically thinking of prior to an oral
2 hearing kind of a two-step process possibly where the
3 Board initially focuses or proposes some very specific
4 direct questions and then tries to identify more
5 general areas after receiving responses to those
6 questions. It would be the subject of actual
7 testimony at a hearing.

8 But, yes, we'll look at that. I take it
9 with that sort of aggressive schedule the Applicant is
10 prepared to respond promptly to written questions. I
11 mean obviously you can't commit to exactly how
12 promptly until you see what they might be and we don't
13 know yet what they might be. But I take it you are
14 eager to move this along. Is that a fair statement,
15 Mr. Silverman?

16 MR. SILVERMAN: This is Don Silverman. We
17 are eager to move it along. We are prepared to move
18 as swiftly as possible and we have taken into account
19 in our schedule I think what the Board is thinking
20 about which is, in fact, first a series of questions
21 on the safety and environmental aspects, followed it
22 up by pre-filed written testimony in a hearing as
23 necessary on the remaining areas.

24 CHAIRMAN RYERSON: Right. And this may be
25 jumping a little bit ahead but talking about a two-

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1 phase process here. I think the nature of the
2 questions is fairly straightforward. I think we would
3 have simply a series of written questions.

4 Some boards have dealt with the sort of
5 the second phase if you will of testimony in different
6 ways. I think the Vogel Board that Judge Jackson was
7 on had more in the nature of -- and maybe he can speak
8 to this better than I can -- but had more in the
9 nature of almost a presentation of slides followed by
10 oral amplification as opposed to formal written
11 testimony beforehand. And I don't know if you've
12 thought about that and he may care to comment on how
13 that worked at Vogel.

14 JUDGE JACKSON: This is Judge Jackson.
15 That seemed to work well in Vogel. We were supplied
16 basically the PowerPoint slides a few weeks in advance
17 so we could go over them. And then the witnesses gave
18 oral testimony going over the slides. And we
19 interspersed a number of questions then. And the
20 questions and answers then became part of the record.
21 And that was the mechanism for getting them into the
22 record.

23 The hearing process seemed to work fairly
24 well. And the only difference was we did not request
25 detailed written testimony in advance. So we were

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1 interested in what your views might be on that kind of
2 an approach.

3 MR. SILVERMAN: This is Don Silverman for
4 GLE. I think we would be open to considering that.
5 It's hard, Judge Jackson, to really know how well that
6 will work in this case when we don't obviously yet
7 know what the question are.

8 I have a little hesitation only because my
9 experience is that the pre-file testimony gives us the
10 opportunity to lay things out soups to nuts to make
11 sure that everything is covered that needs to be
12 covered effectively and completely. I don't doubt
13 that this other approach worked well in Vogel and
14 maybe it will work here in some or all cases. But
15 I've got a little reservation about it for that
16 reason.

17 JUDGE JACKSON: This is Judge Jackson.
18 Let me just follow up. You wouldn't see an objection
19 then to having this detailed written pre-filed
20 testimony. But then at the actual hearing in areas
21 that we choose to cover as part of that hearing to
22 provide a synopsis or an overview of the arguments in
23 each area so that we can intersperse our questions.

24 MR. SILVERMAN: This is Don Silverman.
25 That would be just fine.

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1 JUDGE JACKSON: Okay. Thank you.

2 MS. SAFFORD: This is Carrie Safford from
3 staff. I just wanted to also interject that the
4 ability to have the pre-filed testimony and to retain
5 that might also be beneficial to the extent there is
6 any discussion of export control of our classified
7 information and we can better separate that out in the
8 pre-filed testimony. So I think what I was hearing
9 was perhaps doing the pre-filed testimony as well as
10 having the Vogel file presentation at the hearing.

11 JUDGE JACKSON: Yes. If there is no
12 objection to that, that would be an option. I just
13 wanted to ask if that would be viewed by the staff or
14 the Applicant as an unreasonable amount of preparation
15 or something along those lines.

16 MR. SILVERMAN: This is Don Silverman.
17 No, Your Honor.

18 JUDGE JACKSON: Thank you.

19 CHAIRMAN RYERSON: Thank you. Go to
20 question five. This is Judge Ryerson again. We
21 attached as Attachment A a set of issues, actually,
22 very similar to a set of issues that the AVERA Board
23 in their Richmond case proposed and the parties there
24 seemed to agree for the relevant issues. Any
25 disagreement here on that point?

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1 MS. SAFFORD: This is Carrie Safford from
2 staff. And we don't have any disagreement with the
3 determination set forth in Attachment A.

4 CHAIRMAN RYERSON: Okay.

5 Mr. Silverman?

6 MR. SILVERMAN: None, Your Honor.

7 CHAIRMAN RYERSON: Okay. All right.
8 Question six and I think we may want to consider
9 questions six and nine together because they probably
10 relate to each other or they may relate to each other.
11 Question six is basically how should we conduct this
12 hearing and question nine gets into the issue of what
13 the SER and perhaps the FEIS as well will actually
14 look like in terms of the classified information that
15 may be involved.

16 I guess it appears to us that while
17 there's a fair amount of pages in the application that
18 are not classified that much of the meat of the
19 application probably is and that perhaps may be the
20 case with the SER as well for that reason.

21 Ms. Safford, do you have -- Obviously, we
22 don't want to get into any discussion of the substance
23 of any classified information on this call. But in
24 terms of the likelihood that the SER, say, first of
25 all, will have substantial amounts of classified

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1 information can you speak to that at this point?

2 MS. SAFFORD: This is Carrie Safford. My
3 understanding at this point is that the SER, the goal
4 is to not have any classified information in that
5 document.

6 CHAIRMAN RYERSON: Yes.

7 MS. SAFFORD: The document will, however,
8 likely contain export control, proprietary
9 information. As far as the FEIS is concerned, that
10 will have -- that has proprietary information. But
11 that's no classified information in that.

12 PARTICIPANT: Or export.

13 MS. SAFFORD: Or export control.

14 CHAIRMAN RYERSON: Okay. I understand.

15 MR. SILVERMAN: I apologize. This is Don
16 Silverman. Carrie, would you mind just repeating what
17 you said about the license application? I apologize.
18 With respect to the amount of classified information.

19 MS. SAFFORD: I'm sorry. I was referring
20 to the SER.

21 MR. SILVERMAN: To the SER, okay.

22 MS. SAFFORD: Yes, the FEIS.

23 JUDGE JACKSON: Okay. This is Judge
24 Jackson. As a follow-up question, you would
25 anticipate then that the SER would be able to describe

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1 areas such as the criticality safety analysis and do
2 that without including classified information. Is
3 that your view?

4 MS. SAFFORD: Yes.

5 JUDGE JACKSON: Okay. Thank you.

6 CHAIRMAN RYERSON: Yes. We'll obviously
7 see that document when it is -- This is Judge Ryerson
8 again. I guess we'll see that document and have to
9 make a judgment whether that is sufficient.

10 What about the location of the hearing,
11 again, assuming that there's a hearing on both safety
12 and NEPA issues? Let me speak first to the staff on
13 this. Is it the staff's position that this should
14 preferably be conducted in North Carolina?

15 MS. SAFFORD: The staff would not object
16 to holding the hearing in North Carolina. But in the
17 event that when we get to the hearing stage if there
18 are any questions that would involve discussion of
19 classified, sensitive information that logistically it
20 might make more sense to have those portions of the
21 hearing here in headquarters.

22 CHAIRMAN RYERSON: Yes, I think it -- I
23 think that's the Board's sense. We haven't obviously
24 decided anything finally yet. But if, in fact,
25 classified information needs to be dealt with at a

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1 hearing, it's hard for us anyway to envision how
2 mechanically we could do that outside of headquarters.
3 But, as you say, perhaps that will not be necessary.

4 Let's assume -- Assuming that there is no
5 classified information for purpose of argument, you
6 said you would not object, Ms. Safford, to having it
7 in North Carolina. Is the staff expressing a
8 preference to have the hearing in North Carolina?

9 MS. SAFFORD: We weren't expressing a
10 preference, Your Honor. We just don't have an
11 objection to holding it in Wilmington.

12 CHAIRMAN RYERSON: Okay.

13 Mr. Silverman, what about the Applicant's
14 views on that?

15 MR. SILVERMAN: They're pretty much the
16 same, Your Honor. We have no objection to holding it
17 in Wilmington if it's non classified and there are
18 some locations here that I've been advised have been
19 pretty accommodating in setting up the space for this
20 sort of thing. But as you correctly noted before,
21 there was classified information involved, at least,
22 that part of the hearing, we just don't have the space
23 here in Wilmington to do that effectively and
24 efficiently.

25 CHAIRMAN RYERSON: Okay.

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1 MR. SILVERMAN: So we're on board with the
2 staff on that.

3 CHAIRMAN RYERSON: Okay. I think we've
4 really already addressed to some extent this question
5 of how evidence might be presented after responses to
6 the Board's initial set of questions. And that will
7 sort of I think if I'm accurately summarizing we'll
8 kind of play by ear and see how that works when we
9 actually get to the point of trying to specify areas
10 for further evidence prior to the hearing.

11 Moving onto seven, question number seven,
12 the hearing notice requested but appeared not by its
13 terms to require that parties who desire to make a
14 limited appearance notify the Commission or notify the
15 Secretary by March 15. Let me turn first to the
16 staff. What is your view of the proper reading of
17 that notice? Are we supposed to still consider taking
18 limited appearance statements in your view?

19 MS. SAFFORD: This is Carrie Safford
20 again. It's staff's position that the order was very
21 clear that there was a time which was March 15, 2010
22 by which a party needs to inform the Secretary of the
23 Commission. And we have not received any requests for
24 limited appearances.

25 CHAIRMAN RYERSON: Well, let me rephrase

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1 the question. If someone were to ask, say, in the
2 month preceding the actual hearing for the opportunity
3 to make a limited appearance, is the staff's position
4 that it should be rejected on the basis of the hearing
5 notice?

6 MS. SAFFORD: No, I don't think staff
7 would object to it.

8 CHAIRMAN RYERSON: Okay.

9 MS. SAFFORD: If a request came in.

10 CHAIRMAN RYERSON: Okay.

11 Mr. Silverman, what's the Applicant's view
12 on limited appearances?

13 MR. SILVERMAN: Well, our strong
14 preference, Your Honor, is to dispense with limited
15 appearances at this point based upon the clarity of
16 the Commission's order and then ample opportunity for
17 anyone to request an opportunity to provide a limited
18 appearance statement. So we would prefer that the
19 Board move forward on that basis.

20 CHAIRMAN RYERSON: Yes. All right. Well,
21 we will have something that certainly can be
22 considered in light of any request that we actually
23 may get. We, the Board, was curious as to whether you
24 had a firm view about the reading of the order.

25 MR. SILVERMAN: Actually --

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1 CHAIRMAN RYERSON: Go ahead, Mr.
2 Silverman.

3 MR. SILVERMAN: I was just going to say
4 that I don't want to gild the lily. We think the
5 Applicant's view is the order was very clear and
6 leaves no doubt, should leave no doubt, in anyone's
7 mind as to what the Commission's expectations were.
8 That's what's underlying our preference in this
9 regard.

10 CHAIRMAN RYERSON: Okay. All right.
11 Moving onto eight, would a site visit be helpful here?
12 Or let me ask the Applicant first on this one.

13 MR. SILVERMAN: Your Honor, yes, we do
14 think that site visit would be helpful and we'd be
15 very pleased to host that. We think that it would be
16 valuable for the Board members to come see the site to
17 get a better sense of the site layout, to get a better
18 sense of the security arrangements, some of the
19 details of the technology as you need it. And so we'd
20 be very pleased to support that and think it would be
21 helpful.

22 CHAIRMAN RYERSON: Okay. We will
23 certainly consider that then.

24 Does the staff have a particular view on
25 that?

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1 MS. SAFFORD: This is Carrie Safford.
2 Staff has no objection.

3 CHAIRMAN RYERSON: Okay. What is there
4 now if I may ask, Mr. Silverman? Physically what is
5 located there right now?

6 MR. SILVERMAN: There is what is referred
7 to as the test loop. The test loop and it is -- I'm
8 going to ask the folks around me to make sure I'm
9 getting this right. But it's essentially a smaller
10 version of the commercial facility and would allow I
11 believe -- and maybe Julie Olivier can correct me or
12 straighten me out on this -- someone to see a smaller
13 version of the process from start to finish. Is that
14 accurate, Julie?

15 MS. OLIVIER: Yes. This is Julie Olivier.
16 What we have currently is the test loop which we set
17 up under the current license that we hold under Part
18 70 for our fuel fabrication facility. And the test
19 loop was set up as they intended to verify the process
20 physics for the technology as well as pursue the
21 commercial feasibility of scaling up the technology to
22 the commercial facility. So while it's not quite a
23 pilot, it is sort of a smaller version of what we
24 propose for the commercial facility.

25 In addition to that, we have a facility

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1 where we do classified work, design type work, on the
2 commercial facility on the site. During a tour, we
3 would also show you the site area that we have set
4 aside for the GEL commercial facility and we can
5 describe some of the environmental impacts that were
6 described in the environmental report.

7 CHAIRMAN RYERSON: I take it that this
8 would be something that could be done in a single day.

9 MS. OLIVIER: Yes, this is Julie Olivier.
10 In the past when we've had senior managers from the
11 NRC come on site, we typically spend about two hours
12 giving an overview of the technology in our classified
13 facility and then going into the test loop which is
14 also a classified facility during a tour. And then we
15 also spend about an hour and a half just doing a
16 general site tour and showing the area that's to be
17 developed for the commercial facility and pointing out
18 some of the areas that were surveyed and evaluated for
19 environmental impacts. So it's about four hours in
20 total.

21 CHAIRMAN RYERSON: Thank you. Before we
22 get to ten, let me ask my fellow judges if there's
23 anything that you want to raise that we haven't talked
24 about on these earlier questions.

25 JUDGE JACKSON: This is Judge Jackson.

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1 Let me just pursue a little bit the earlier question
2 regarding the classified information that might
3 support the SER. Do you anticipate a classified
4 addendum for us or?

5 MS. SAFFORD: This is Carrie Safford. I'm
6 sorry, Your Honor. No, we don't anticipate any
7 classified addendum.

8 JUDGE JACKSON: Okay. Thank you.

9 CHAIRMAN RYERSON: Okay. Well, let me
10 throw it to the parties at this point with question
11 ten. Is there anything first from the staff's
12 standpoint that we should be talking about today that
13 we have not addressed?

14 MS. SAFFORD: This is Carrie Safford. I
15 just wanted to make one request and this goes back to
16 one of the earlier points we were discussing. I
17 believe it's point four. Staff would just appreciate
18 the opportunity to provide comments on any proposed
19 schedules that the Applicant submits to the Board for
20 their consideration.

21 CHAIRMAN RYERSON: Okay.

22 MR. SILVERMAN: This is Don Silverman. We
23 certainly would not object to that, Your Honor.

24 CHAIRMAN RYERSON: Okay. All right.
25 Anything else then, Ms. Safford?

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1 MS. SAFFORD: No, nothing else from staff.

2 CHAIRMAN RYERSON: Mr. Silverman, anything

3 we should be talking about?

4 MR. SILVERMAN: Not that I can think of,

5 Your Honor.

6 CHAIRMAN RYERSON: Okay. Well, what is

7 your anticipated timing then in filing a proposal with

8 us, Mr. Silverman?

9 MR. SILVERMAN: Oh, I think we can get one

10 in to you next week and probably more towards the

11 early side than the latter part of the week.

12 CHAIRMAN RYERSON: How much time would the

13 staff like to comment?

14 MS. SAFFORD: Just a few days would be

15 fine.

16 CHAIRMAN RYERSON: Okay. So within a

17 week?

18 MS. SAFFORD: Yes.

19 CHAIRMAN RYERSON: Okay. All right.

20 Well, let's leave it that way. We will look for a

21 proposed schedule from the Applicant next week and the

22 staff's comments, if any, on it within a week

23 thereafter. And we will take all that into account

24 and issue an order over the next few weeks.

25 Anything else?

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1 MS. SAFFORD: Nothing from staff.

2 CHAIRMAN RYERSON: Nothing from staff.
3 Nothing from Mr. Silverman. Nothing from my fellow
4 judges. I think the conference is concluded. Thank
5 you very much. Off the record.

6 (Whereupon, at 10:30 a.m., the above-
7 entitled matter was concluded.)
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CERTIFICATE

This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission
in the matter of:

GE-Hitachi

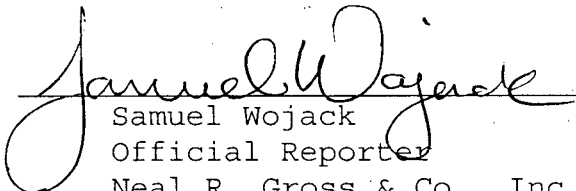
Global Laser Enrichment

Name of Proceeding: Pre-Hearing Conference

Docket Number: 70-7016-ML

Location: (telephone conference)

were held as herein appears, and that this is the
original transcript thereof for the file of the United
States Nuclear Regulatory Commission taken by me and,
thereafter reduced to typewriting by me or under the
direction of the court reporting company, and that the
transcript is a true and accurate record of the
foregoing proceedings.


Samuel Wojack
Official Reporter
Neal R. Gross & Co., Inc.