

**Official Transcript of Proceedings**  
**NUCLEAR REGULATORY COMMISSION**

Title: Aerotest Operations, Inc.  
Aerotest Radiography and Research Reactor

Docket Number: 50-228-LT

ASLBP Number: 14-931-01-LT-BD01

Location: teleconference

Date: Thursday, July 24, 2014

Work Order No.: NRC-957

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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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SCHEDULING PREHEARING TELECONFERENCE

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In the Matter of: :

AEROTEST OPERATIONS, INC.: Docket No. 50-228-LT

(Aerotest Radiography : ASLBP No.

and Research Reactor) : 14-931-01-LT-BD01

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Thursday, July 24, 2014

Teleconference

BEFORE:

E. ROY HAWKENS, Presiding Official

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

1  
2 MR. HAWKENS: Thank you, Jean. Good  
3 afternoon, my name is Roy Hawkens. I'm the Presiding  
4 Officer in this case entitled Aerotest Operations,  
5 Incorporated, Aerotest Radiography and Research  
6 Reactor, Docket Number 50-228-LT.

7 I'm joined in Rockville Headquarters by  
8 the Board's law clerk, Ms. Kathy Schroeder and by the  
9 panel's administrative assistant, Ms. Sarah Culler.  
10 Would counsel for the parties please introduce  
11 themselves for the record?

12 MS. GHOSH: For the NRC staff this is  
13 Anita Ghosh, with me I have co-counsel, Susan Uttal,  
14 Catherine Kanatas, and Jeremy Wachutka.

15 MR. HAWKENS: Thank you.

16 MS. HARSHAW: On behalf of Aerotest and  
17 Nuclear Labyrinth this is Kim Harshaw with Pillsbury  
18 Winthrop Shaw Pittman.

19 MR. HAWKENS: Thank you, Ms. Harshaw. As  
20 stated in this Board's Notice of July 18th the purpose  
21 of a teleconference is to discuss scheduling and  
22 procedural matters relating to the hearing that will  
23 take place on August 12th in the panel's Rockville  
24 hearing room.

25 I have a list of seven items to address

1 and after that I'll give the parties the opportunity  
2 to discuss any additional items they'd like to raise.

3 First, regarding timing on the day of the  
4 hearing, I propose we commence the hearing at 10:00  
5 and if practicable continue that day until we're  
6 complete, taking any breaks that are compatible with  
7 that goal.

8 To the counsel, are counsel agreeable with  
9 that and think that's a reasonable projection? Ms.  
10 Harshaw?

11 MS. HARSHAW: That sounds reasonable to  
12 us. We just have two witnesses so that seems  
13 reasonable.

14 MR. HAWKENS: All right. And your  
15 witnesses, Ms. Harshaw, would remain available  
16 throughout the day and if necessary into the early  
17 evening?

18 MS. HARSHAW: Yes.

19 MR. HAWKENS: All right. Ms. Ghosh?

20 MS. GHOSH: For the NRC staff what would  
21 early evening be? Would that be --

22 MR. HAWKENS: I'm hoping early evening  
23 will be mid-afternoon.

24 (Laughter)

25 MR. HAWKENS: But as I say if unexpected

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1 questions, inquiries, concerns arise it would be an  
2 objective if practicable to complete it on that day  
3 and if that requires going into the early evening I'd  
4 just kind of like doing what's necessary to finish it.

5 I mean if we get to dinnertime and people  
6 think it's going to go much beyond that I'll certainly  
7 be open to continuing it the next day, but I  
8 anticipate being able to finish it by mid-afternoon.

9 MS. GHOSH: Okay, so staff thinks that's  
10 reasonable.

11 MR. HAWKENS: All right. And your  
12 witnesses likewise would be available throughout the  
13 proceeding on that day?

14 MS. GHOSH: Yes, that's correct.

15 MR. HAWKENS: Is that correct, all right.  
16 Second, to the extent counsel would like to make  
17 opening and/or closing statements I propose limiting  
18 them to ten minutes each, which would not include any  
19 time taken to answer questions that may arise during  
20 the statements themselves.

21 Does that sound reasonable to both  
22 counsel?

23 MS. HARSHAW: That's reasonable for  
24 Pillsbury.

25 MR. HAWKENS: Thank you. NRC?

1 MS. GHOSH: Yes, that's reasonable for the  
2 staff.

3 MR. HAWKENS: Thank you. And let me ask  
4 each counsel, do you contemplate at this point  
5 availing yourself of the opportunity to make both  
6 opening and closing statements? Aerotest, or excuse  
7 me, Ms. Harshaw?

8 MS. HARSHAW: Yes, we do.

9 MR. HAWKENS: Thank you. Ms. Ghosh?

10 MS. GHOSH: Yes.

11 MR. HAWKENS: The order of presentation,  
12 I contemplate it would be as follows. First opening  
13 statement would be the Companies, the second opening  
14 statement the NRC staff, and the first group of  
15 witnesses I propose examining would be the Companies  
16 followed by staff witnesses.

17 I'd give both parties the opportunity at  
18 that point to provide additional suggested questions  
19 that might arise as the result of the examination and  
20 afterwards closing by the staff followed by closing by  
21 Aerotest.

22 Does that sound acceptable to the parties?

23 MS. HARSHAW: This is Kim Harshaw, that's  
24 acceptable to the Companies.

25 MS. GHOSH: This is Anita Ghosh, that's

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1 also acceptable to the staff.

2 MR. HAWKENS: Thank you. Third, regarding  
3 admission of exhibits, I'd like to admit them all at  
4 the outset of the hearing by reference to the parties'  
5 exhibit lists, which I'll then have the court reporter  
6 bind into the transcript.

7 If we want to do that we have to ensure  
8 the exhibit lists are accurate, and to that end I have  
9 two questions for the counsel. Does either party  
10 anticipate revising an exhibit or supplementing its  
11 exhibit list? Ms. Harshaw?

12 MS. HARSHAW: We do not intend to revise  
13 or supplement our exhibits.

14 MR. HAWKENS: Thank you. Ms. Ghosh?

15 MS. GHOSH: No, we do not intend to  
16 supplement or revise our exhibits either.

17 MR. HAWKENS: Thank you. Second question  
18 for both of you, do either of you anticipate  
19 challenging an exhibit?

20 MS. HARSHAW: The Companies do not intend  
21 to challenge any exhibits.

22 MS. GHOSH: The staff does not either.

23 MR. HAWKENS: All right, thank you.  
24 Counsel should be aware that during the hearing the  
25 exhibits can be displayed on the hearing room monitors

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1 by the Clerk of Courts if a party wishes, and to avoid  
2 delay exhibits should be requested by exhibit number  
3 and if possible a PDF page number.

4 Item Number 4 on my list, do counsel  
5 contemplate submitting any motions prior to the  
6 hearing?

7 MS. HARSHAW: The Companies do not  
8 anticipate submitting any motions.

9 MS. GHOSH: The staff does not anticipate  
10 submitting any motions either.

11 MR. HAWKENS: Thank you. Item 5, based on  
12 the issues in this case and the nature of the  
13 questions I would propose examining Ms. Lian and Ms.  
14 Simmons together and to examine the other three  
15 witnesses individually.

16 Does either party object to that approach?

17 MS. HARSHAW: The Companies do not object.

18 MS. GHOSH: Can we have one minute to  
19 consult?

20 MR. HAWKENS: Yes.

21 MS. GHOSH: Thank you. Your Honor, this  
22 is Anita Ghosh for the staff. There might be some  
23 crosscutting issues between, I guess the topics that  
24 would be covered by Ms. Lian and Ms. Simmons and also  
25 Mr. Adams.

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1           That would be our only concern in  
2 separating the staff witnesses.

3           MR. HAWKENS: Understand, and if I pose a  
4 question to either the two individuals and Ms. Lian  
5 and Ms. Simmons as a group that they are unable to  
6 answer we can follow up at the time if they think it's  
7 necessary by bringing Mr. Adams up.

8           MS. GHOSH: Okay.

9           MR. HAWKENS: I think we can handle that  
10 as necessary at the hearing.

11          MS. GHOSH: Okay. Then that would be  
12 reasonable to the staff.

13          MR. HAWKENS: All right. Does either  
14 party see a need for excluding witnesses who have not  
15 testified during the hearing?

16          MS. HARSHAW: The Companies do not see a  
17 reason to exclude witnesses. The testimony has  
18 already been submitted for the most part in writing,  
19 so we do not see a need to exclude witnesses.

20          MR. HAWKENS: Ms. Ghosh?

21          MS. GHOSH: No, the staff doesn't see a  
22 need to exclude witnesses.

23          MR. HAWKENS: They will not then be  
24 excluded. Item Number 6, proprietary information  
25 seems to play a significant role throughout many

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1 aspects of this case, which militates in favor of  
2 closing the hearing, and I'm wondering if counsel  
3 envisioned any approach that would allow a portion of  
4 the hearing to be open or whether you think it would  
5 be well to close the entire hearing? Ms. Harshaw?

6 MS. HARSHAW: I envisioned that the  
7 hearing would be closed. Most of the information like  
8 you said is proprietary or relies on proprietary  
9 information, so I had not envisioned it being open.

10 MR. HAWKENS: Thank you. Ms. Ghosh?

11 MS. GHOSH: It's Aerotest's information so  
12 I, you know, to the extent that it's proprietary I  
13 think that would cover most of the issues at the  
14 hearing, so I think, yes, I would envision it being  
15 closed as well.

16 MR. HAWKENS: Thank you. In light of that  
17 I'd request each counsel to provide a list of  
18 authorized attendees to Ms. Schroeder by email by  
19 August 5th and we will consolidate the list and we  
20 will provide that list to a guard posted at the  
21 hearing room to restrict access to those on the list.

22 Is August 5th, is that day a doable date  
23 for both counsel to provide?

24 MS. HARSHAW: That's doable for the  
25 Companies.

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1 MS. GHOSH: And also for the staff.

2 MR. HAWKENS: Thank you. Let me ask both  
3 parties this, do either parties have any objection to  
4 panel members, either judges or law clerks, being  
5 included on the list of authorized attendees?

6 MS. HARSHAW: The Companies do not.

7 MR. HAWKENS: Thank you.

8 MS. GHOSH: The staff does not.

9 MR. HAWKENS: All right, thank you very  
10 much. Finally, Item Number 7, convenient parking for  
11 Aerotest counsel and witnesses, we will endeavor to  
12 provide parking spaces for you to make it a little bit  
13 more convenient and Ms. Schroeder will contact you by  
14 email to coordinate those details.

15 MS. HARSHAW: That is much appreciated,  
16 thank you.

17 MR. HAWKENS: Any matters now that counsel  
18 wish to discuss? Ms. Harshaw, let's start with you.

19 MS. HARSHAW: We do not, I don't have any  
20 matters to discuss. I haven't thought of any.

21 MR. HAWKENS: All right. Ms. Ghosh?

22 MS. GHOSH: The staff doesn't have  
23 anything either.

24 MR. HAWKENS: Thank you very much. We're  
25 done then. Let me ask the parties if they'd remain on

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1 line for just a few minutes in case the court  
2 reporter, Daniel, has any final follow up questions  
3 for them. Thank you very much.

4 MS. HARSHAW: Thank you.

5 MS. GHOSH: Thank you.

6 (Whereupon, the above-entitled matter went  
7 off the record at 1:18 p.m.)

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