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NUCLEAR REGULATORY COMMISSION

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Title: Georgia Tech Research Reactor
Renewal of License No. R-97

Docket Number: 50-160-Ren
ASLBP No.: 95-710-01-Ren

Location: (Telephone Conference Call)

Date: Tuesday, February 6, 1996

Work Order No.: NRC-515

Pages 581-662

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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4 ATOMIC SAFETY AND LICENSING BOARD
5 PREHEARING CONFERENCE

6 -----X

7 IN THE MATTER OF: : Docket No.
8 GEORGIA INSTITUTE OF TECHNOLOGY : 50-160-Ren.
9 Atlanta, Georgia :
10 :
11 GEORGIA TECH RESEARCH REACTOR : ASLBP No.
12 : 95-710-01-Ren.
13 Renewal of License No. R-97 :

14 -----X

15
16 Tuesday, February 6, 1996
17 Telephone Conference Call
18

19 The above-entitled matter came on for
20 prehearing conference, pursuant to notice, at 10:00 a.m.

21 BEFORE:

22 CHARLES BECHHOEFER, Esq. Chairman
23 DR. JERRY R. KLINE Administrative Judge
24 DR. PETER S. LAM Administrative Judge
25

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1 APPEARANCES:

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10 Staff:

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18 On behalf of the Atomic Safety and Licensing Board
19 Panel:

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1 APPEARANCES: (Continued)

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3 On behalf of Georgia Institute of Technology:

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6 State of Georgia

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11

12 ALSO PRESENT:

13

14 Marvin Mendonca

15 Technical Representative

16 U.S. Nuclear Regulatory Commission

17

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

(10:08 a.m.)

1
2
3 CHAIRMAN BECHHOEFER: There are several
4 purposes for this call. First, I understand that Georgia
5 Tech did not put in writing the statement that the staff
6 did concerning summary disposition. I understand Mr.
7 Evans wanted to record for the record what Georgia Tech
8 was or wasn't going to do.

9 MR. EVAN: That's fine. Lead off with that.
10 It was just that I was so busy reading this already
11 humongous file, that I didn't want to get ahead of myself,
12 but I am prepared to say we do not contemplate -- we do
13 not contemplate filing a motion for summary judgment.
14 That's adequate?

15 CHAIRMAN BECHHOEFER: That, technically is
16 summary disposition.

17 MR. EVAN: Summary disposition.

18 CHAIRMAN BECHHOEFER: Same difference.

19 MR. EVAN: I'm basically a court reporter so
20 you'll have to bear with me on some of the idiosyncracies
21 of administrative work.

22 CHAIRMAN BECHHOEFER: Well, that's okay. The
23 next matter which we ought to take up is the staff's
24 motion to compel discovery. And that was filed on January
25 24th, but I understand there's been certain developments

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1 with respect to that, and either Mr. Turk or Ms. Carroll
2 can address that.

3 Mr. Turk probably should address what's been
4 going on.

5 MR. TURK: Okay, Your Honor, I would be happy
6 to do that. If at any point Ms. Carroll feels that she
7 needs to amend or correct something I say, I would be very
8 happy to welcome her to make an interjection of whatever
9 she feels is appropriate.

10 MS. CARROLL: Thank you.

11 MR. TURK: Your Honor, the staff has filed
12 discovery against GANE by in July. We filed a single set
13 of interrogatories and document requests on July 7, 1995.
14 That discovery request consisted of two parts.

15 One part dealt with the security contention.
16 The second part dealt with the management contention. The
17 security contention is no longer an issue in the
18 proceeding, and there are no discovery issues outstanding
19 with respect to security.

20 So everything we have to say today will
21 concern discovery on the management contention.

22 GANE filed an initial response to our
23 discovery request on July 7, 1995. At that time GANE
24 indicated that it did not yet have much of the information
25 which it was seeking to support its litigation in this

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1 proceeding. And the staff accepted those answers.

2 We did not move to compel at that time because
3 we understood that the answers were sufficiently complete,
4 at least to the extent that the knowledge existed within
5 GANE at that time.

6 GANE, however, did indicate that it would
7 supplement its responses. Your Honor, there was an order
8 issued by the Board at the end of last year. I believe
9 it was -- I'll get you a date. Well, it's eluding me.

10 But there was a decision by the Board which --

11 CHAIRMAN BECHHOEFER: Twenty-nine is that --

12 MR. TURK: I'm sorry.

13 CHAIRMAN BECHHOEFER: November 29.

14 MR. TURK: That sounds about right, and I
15 don't know why I can't put my finger on it. That's the
16 time frame that I was thinking.

17 CHAIRMAN BECHHOEFER: November 29, I've got it
18 in front of me.

19 MR. TURK: Okay. All right, in the order the
20 Board indicated -- again, thank you Your Honor, that is
21 the order I was referring to. The Board established a
22 further schedule for the proceeding, and in that order the
23 Board indicated that further supplementation of GANE's
24 discovery answers would be provided by GANE.

25 And there was a schedule set up in that order

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1 which was subsequently extended at the request of GANE.
2 So that discovery is now scheduled to close on February
3 23rd. That is all discovery including any deposition
4 discovery that may be necessary.

5 On January 11, 1996, GANE did file a
6 supplementation of its discovery answers. That discovery
7 supplementation came in, I believe, six days late.
8 Nonetheless, it did constitute a fairly sizeable
9 supplementation of GANE's responses.

10 When the staff reviewed GANE's responses we
11 noticed several very glaring omissions or errors in
12 compliance with the discovery rules. For instance, we
13 noticed that while 10 CFR 2.740B contemplates that
14 interrogatory answers are to be answered under oath or
15 affirmation. GANE's discovery responses were not sworn
16 to.

17 There was no oath or affirmation. Further we
18 noted that that same regulation required that answers
19 shall be signed by the person making them. In GANE's
20 supplemental response and, indeed, in its initial
21 response, Glenn Carroll signed the documents and under her
22 name she wrote "representative for GANE."

23 And it was not clear whether Ms. Carroll
24 herself was providing the answers, or if she was simply
25 the instrument of GANE whereby she was submitting the

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1 interrogatory answers as a party representative but not as
2 a person with knowledge of the facts or assertions stated
3 in the discovery answer.

4 We further noted that while the staff had
5 asked for various documents or copies of documents, GANE's
6 response to that request was to state that they did not
7 have the financial resources to make copies for other
8 parties. Where in fact the staff's request had asked that
9 documents be produced for inspection or copying by the
10 staff.

11 I.e., the staff would have made whatever
12 copies were necessary at its own expense, and it did not
13 seek that GANE make copies at its expense if it did not
14 wish to do so.

15 The end result of that plus what we considered
16 to be omissions or failure to properly answer
17 interrogatories with respect to specific interrogatories
18 led the staff to file a motion to compel on January 24th,
19 1996; and in that motion to compel, we set forth the
20 problems which I have just enumerated as well as the
21 specific flaws which we perceive to exist in GANE's
22 supplemental responses.

23 And we did that -- the latter category we did
24 item by item with respect to each of the interrogatories
25 which we felt did not get answered properly and fully.

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1 Subsequent to the filing of our motion, the staff had a
2 call, we had a telephone conversation with Ms. Carroll.
3 At which time we went through each of the staff's
4 perceived problems in G's responses.

5 And we did reach an agreement with GANE at
6 that time, that GANE will file a further supplementation
7 of its discovery responses. And Ms. Carroll committed to
8 do that this coming Friday, which I believe is the 9th of
9 February. If she puts her supplemental responses in the
10 mail, we should have them probably by next Tuesday.

11 And by then, when we read those answers, at
12 that time we will be able to determine if, in fact, we do
13 now have a complete and acceptable set of discovery
14 answers from Glenn Carroll and GANE.

15 The reason why this is important to us is that
16 the, as the Board knows, discovery responses are usable in
17 evidence. They are to be sworn or affirmed to so that the
18 person making them can be cross-examined and held to the
19 standards applied by the courts and by the tribunals of
20 the Commission with respect to truthfulness and penalties
21 for not stating facts truthfully.

22 And I went through that with Ms. Carroll and I
23 believe she now has a better understanding the purpose of
24 discovery and the need to have the answers provided by
25 persons with knowledge and have the answers sworn to.

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1 Incidentally, in that regard, I pointed Ms.
2 Carroll to a staff response to GANE's discovery in which
3 the staff had provided an interrogatory answer under oath
4 signed by Mr. Mendonça, so that we did provide GANE with
5 an example of what she could submit to us in response to
6 our discovery.

7 Now I should point out one other flaw that
8 the staff discussed with Ms. Carroll in her discovery
9 answers. At many times in her discovery answers or in
10 GANE's discovery answers, various comments are interjected
11 whereby GANE's questions whether the applicant is doing
12 things correctly, or perhaps there were some barbs or
13 arrows pointed towards either the staff or Georgia Tech,
14 which did not really constitute discovery answers so much
15 as they did questions and comments.

16 CHAIRMAN BECHHOEFER: A bit of brief writing.

17 MR. TURK: Pardon me?

18 CHAIRMAN BECHHOEFER: A bit of brief writing.

19 MR. TURK: Yes. In fact that was one of the
20 things that we discussed with GANE, that the discovery
21 answers did not appear to be answers to the discovery as
22 much as they did appear to be allegations and the kinds of
23 things that would be stated in a lawyer's paper, but not
24 in discovery answers.

25 So we went through that a little bit and we

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1 hope that when we see GANE's final supplementation, which
2 is to be filed this week, that we will have in fact true
3 answers to discovery. I would like to go through some of
4 the specifics, but that's just a general summary of where
5 we stand.

6 Perhaps I should break at this point to see if
7 the Board has any questions or if GANE has any comments.
8 But then I would like to address specifics of the
9 interrogatories which we are looking to have supplement
10 to.

11 CHAIRMAN BECHHOEFER: I am not even sure we
12 need to do this if you're not seeking a ruling of any sort
13 at this time. I am not saying you can't do it, but I'm
14 not sure, as long as we don't have to make a ruling, I'm
15 not sure you have to go over all the details.

16 We're not telling you not to, but it's up to
17 you.

18 MR. TURK: Well, Your Honor, there is one
19 thing in particular that I would like to address.

20 CHAIRMAN BECHHOEFER: All right, that's fine
21 then.

22 MR. TURK: And I am not going to ask you for a
23 ruling, but I do want to put on the record where we stand
24 in respect to this issue in particular.

25 CHAIRMAN BECHHOEFER: Okay.

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1 MR. TURK: In fact, let me mention two issues.
2 One is the production of documents, and that seems to be
3 fairly easy. Ms. Carroll has stated that she will send us
4 copies of the limited number of documents that she has in
5 her possession. Apparently GANE does not have a lot of
6 documents in its possession.

7 What they have at this point consists of notes
8 taken by GANE members as they were viewing various
9 documents, and a few documents themselves. And she will
10 make copies of all of that and send it to us as I
11 understand it.

12 The second more troubling issue, which I
13 believe we have resolved but we will have to wait to see,
14 has to do with the identification of potential witnesses
15 and persons with knowledge of facts. In the staff's
16 Interrogatory No. 22, we asked GANE to identify all
17 persons with knowledge of the facts underlying GANE's
18 contention or assertion.

19 And in Interrogatory No. 23, we ask GANE to
20 identify any person that GANE presently intends to call as
21 a witness in the proceeding, and to provide certain
22 information concerning their expected testimony. GANE, in
23 response to these interrogatories, identified 23 persons
24 which include Glenn Carroll, and Pamela Blockey-O'Brien,
25 whom I believe the Board has met through a limited

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1 appearance statement, as well as 21 other people.

2 There was no clear statement as to what each
3 of these persons would be testifying to, although we had
4 asked that question in Interrogatory No. 23. When we
5 discussed this matter with Ms. Carroll in our telephone
6 conversation, it became apparent that these were persons
7 that GANE believe would have information to provide, but
8 GANE did not know that for a fact because no one from GANE
9 had yet talked to all these various people.

10 They didn't know if they would be appearing as
11 witnesses, and they did not provide us with a statement of
12 what those people would say. Further, with the exception
13 of only a few people, GANE did not identify any
14 information which would allow the staff to then go out and
15 find those people to seek further discovery from them if
16 the staff felt that was appropriate.

17 So that we needed a lot more with respect to
18 identification of people with knowledge and potential
19 witnesses. We are hoping, and Ms. Carroll has committed,
20 that the supplementation of answers which is provided this
21 coming Friday, GANE will make an effort to identify the
22 people which, in fact, it does intend to call as
23 witnesses.

24 And for all the people it believes to have
25 factual information or appear as witnesses, we'll get more

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1 information as to how we can find them, what their
2 addresses are, and where they work, which was part of the
3 interrogatory also.

4 And in fairness I should point out that in our
5 conversation GANE indicated, or Ms. Carroll indicated,
6 that until she receives some records from the licensee,
7 she did not have enough information to provide us where
8 these people are and how we can find them; or, in fact,
9 what they will say.

10 So Ms. Carroll committed to communicate with
11 the licensee to see what else she could get from them that
12 would help her in her discovery and in turn help the staff
13 in its discovery of her.

14 CHAIRMAN BECHHOEFER: One interruption, Judge
15 Lam just walked in. Could you say something so the
16 reporter knows what you sound like.

17 JUDGE LAM: Are you talking to me, Chuck?

18 CHAIRMAN BECHHOEFER: Yes.

19 JUDGE LAM: Yes, I'm Peter Lam.

20 CHAIRMAN BECHHOEFER: Judge Lam, and he is now
21 here. So you can continue.

22 MR. TURK: Those are the most important points
23 that I wanted to go over. May I have just a moment, Your
24 Honor, and Ms. Carroll, if there is anything you wish to
25 add or amend in what I have just said, I would be happy to

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1 have you do that.

2 MS. CARROLL: I think you represented out
3 conversation very beautifully, and I did talk to Georgia
4 Tech and they have a code they believe they can enter into
5 their personnel software to pull up previous employees
6 over the past ten years.

7 So they think they may be able to provide me
8 with an entire collection of personnel files and people
9 that have worked there. The names you see are only names
10 we gleaned from exit interviews and inspections and other
11 materials we saw that referred to previous employees.

12 So we may actually be able to augment that
13 list. Beyond that we lined up some GANE volunteers to
14 contact these people, realizing we may have to do some
15 work to update addresses. If they worked there years ago
16 they may have moved.

17 So we expect to provide better information on
18 that, and Georgia Tech is being cooperative with us.

19 CHAIRMAN BECHHOEFER: Would you expect to call
20 all of these persons as witnesses, either voluntarily or
21 by subpoena?

22 MS. CARROLL: We think that, I mean the
23 record already shows some energetic testimony from
24 Millspaugh, Sharpe, and Boyd, for example that things were
25 not good there. This is old.

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1 And we think that there's been a lot of
2 employees there, which that seems to indicate something in
3 and of itself that people aren't finding happiness and
4 fulfillment in their careers there. And we think that it
5 may be the pattern of several health physics personnel per
6 year that leads greatly to reveal the shortcomings of
7 management there.

8 One thing that we feel is that GANE is not
9 going to be very well received by a lot of these people
10 that work in the nuclear industry. But we are going to
11 contact them and we'll just see what shakes out as to who
12 needs to be subpoenaed and who might want to cooperate
13 with us.

14 MR. EVAN: This is Al Evans. One problem is
15 that with the time constraints on discovery, obviously I
16 should think I would want to depose the people who are
17 going to be called as witnesses. But I gather at this
18 point we really don't know, and that's going to depend on
19 GANE's initial contact, discussion, and a decision as to
20 who they want to call as a witness and who they don't.

21 In other words, we have 24 names so far.
22 Presumably they will be added to. It may be that GANE, in
23 talking to some of these people, will say we don't want
24 this person, he's dead against us. Maybe some they will
25 want.

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1 But the problem is how do we depose, who do we
2 depose, when we have no idea who the people are who GANE
3 actually intends to proffer as witnesses in the case.
4 That gives me a real problem. I don't know who to depose.

5 MS. CARROLL: Well, you're going to know by
6 Tuesday.

7 MR. EVAN: Oh, I'm going to know the people
8 you are going to have as witnesses.

9 MS. CARROLL: Right.

10 MR. EVAN: Okay, well that would take care of
11 it then. I didn't realize you would be able to make that
12 determination that rapidly.

13 MS. CARROLL: I don't see how I will, but
14 that's what I committed to.

15 MR. EVAN: I mean if you haven't talked to
16 them yet, it seems to me -- I mean, before you know -- I
17 don't mean to be advising you in trying your case, but it
18 seems to me before you know who you are going to actually
19 tender as a witness that you need to interview that person
20 and see if he has some testimony that is helpful to you.

21 At that point we would want to know who you're
22 going to call so we can take his deposition.

23 MS. CARROLL: Let me put it this way. As an
24 artist and a volunteer, I feel pretty well oppressed by
25 this whole process every waking minute.

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1 MR. EVAN: I can appreciate that.

2 MS. CARROLL: And when I went down to Georgia
3 Tech with their, you know, we will show you everybody
4 since 1985 on, and they had seven personnel files, lacking
5 even current people. They had Boyd, Sharpe, and
6 Millspaugh, who we already know. Downs who is an
7 interesting character; Karam and Ice. He works there now;
8 and a secretary.

9 They didn't even have Peter Newby who is their
10 current operator. So we went around and they said, well,
11 tell us who you want. And I'm like, hello. You know you
12 said you would give us everybody for the last ten years.
13 They said, well we have shortcomings in our software
14 programs.

15 MR. EVAN: Well, I don't know if that's a
16 hundred people.

17 MS. CARROLL: Okay, so here I am and they
18 still have not gotten, Georgia Tech still has not produced
19 these documents. Now, perhaps if I were more savvy, I
20 would be asking for an extension on this. But basically I
21 am trying to cooperate, and the Friday deadline seemed to
22 appeals, so we're going for it.

23 MR. EVAN: Just to say, all people, is kind of
24 a -- all people where, in the reactor or -- I mean, if
25 you're asking --

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1 MS. CARROLL: Well, read the discovery
2 response that you made to us. You said you would provide
3 us with all the personnel records --

4 MR. EVAN: Of whom?

5 MS. CARROLL: -- of all employees at the
6 facility since 1995.

7 MR. EVAN: Okay, that is probably a ton of
8 personnel records.

9 MS. CARROLL: Probably. In fact, why have so
10 many people worked there in the last ten years would be
11 one of our questions that we hope to ferret out an answer
12 by reviewing these. We think there should be some
13 paperwork as these people terminate.

14 If they write a letter saying why they are
15 resigning, it should be in their personnel file.

16 MR. EVAN: Well, I'm sure those files can be
17 made available.

18 MS. CARROLL: Well, Gary Wolovick is working
19 on it.

20 MR. EVAN: Assuming they have them. If you're
21 going back to '85, would they still have them? Would they
22 be somewhere in archives?

23 MS. CARROLL: Why did you say you would make
24 them available if you didn't know if they were available?

25 MR. EVAN: Well, I assume they mean what they

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1 have they will make available. I can't speak for them.
2 You weren't talking to me. But I assume whatever they
3 have available, they will make available.

4 But if you are talking of everyone since '85,
5 that could pose problems I would guess. I don't know. I
6 don't know how long it's going to take them to get records
7 if they don't have them there.

8 I mean in state government you normally don't
9 keep records in the agency itself but for so many years,
10 and then they, you know, it could be a year. We keep
11 records about a year, and then they go to a records
12 center. How complicated it is to retrieve I have no idea.
13 It's not my business.

14 But who have you been working with there?
15 I'll do my best to try and expedite them, whatever you're
16 trying to do.

17 MS. CARROLL: Gary Wolovick.

18 MR. EVAN: Okay.

19 MS. CARROLL: He's in legal affairs there and,
20 as he said, he was advised of a certain way of approaching
21 the computer program that would pull that up.

22 MR. EVAN: Okay, I'll make it my business to
23 find out.

24 MS. CARROLL: I'm guessing they have it under
25 -- in hand now.

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1 MR. EVAN: I know Gary. He's going to be
2 cooperative.

3 MS. CARROLL: Well, what I am saying is that
4 it Tuesday, and these documents aren't together yet, and I
5 don't think that's really GANE's fault, if you will.

6 MR. EVAN: Okay, when was the last time you
7 talked to them?

8 MS. CARROLL: So maybe if I were more savvy,
9 maybe I would be asking for an extension or filing motions
10 to compel. We're just slogging through.

11 MR. EVAN: Well, I'll call Gary and try and do
12 my best to expedite it, whatever that is. I don't know
13 his problems. I don't know how they have the files
14 arranged. From what you tell me, it has to do with
15 computers.

16 But anyway we don't need to take up everyone's
17 time on that, but I will do by best to try and push that,
18 or find out what the problems are. Right now, I don't
19 know.

20 MR. TURK: Well, Your Honor, I don't know
21 whether this is a good time for me to come back into the
22 conversation. We do need the information from GANE as to
23 who has information that supports her case, and who are
24 the witnesses she intends to call; and the people who are
25 witnesses, a summary of each of their expected testimony.

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1 So we will look to GANE for their answers. I
2 would ask then that our motion to compel simply be put on
3 hold pending our receipt of GANE's further supplemental
4 answers. After we see the supplemental answers, we can
5 then decide whether we need to press the motion to compel
6 or possibly abandon portions of it, and only press about
7 certain issues.

8 But we will have a better view of that next
9 week when we get GANE's supplemental answers.

10 MR. EVAN: And while I know I'm out of time to
11 file my own motion, probably I was out of time before I
12 even read the interrogatory answers. I do know that some
13 of the documents, perhaps you already covered this, on
14 Item 26, when it states "all minutes from nuclear
15 safeguards committee, documents relating to criteria
16 for..." something or other.

17 I believe, if you possibly can, it would
18 certainly be helpful, to specify the minutes by the date,
19 so we have some opportunity to try and figure out what
20 minutes we need to be reviewing ourselves.

21 COURT REPORTER: This is the court reporter.
22 May I ask who is speaking right now?

23 MR. EVAN: I'm sorry. This is Al Evans.

24 COURT REPORTER: Thank you.

25 MS. CARROLL: Mr. Evans, if you look at their

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1 discovery answers, you see the chronology we made since
2 1987 roughly.

3 MR. EVAN: I am looking at your request, Item
4 26.

5 MS. CARROLL: If you look at the answer to the
6 NRC's interrogatory, what facts --

7 MR. EVAN: No, I'm talking specifically about
8 identification of documents.

9 MS. CARROLL: I'm answering your question, Mr.
10 Evans.

11 MR. EVAN: Well, I'm not sure you understood
12 my question.

13 MS. CARROLL: I do.

14 MR. EVAN: We talking about paragraph 26,
15 identify all --

16 MS. CARROLL: If you look at the response to
17 NRC 21, okay, page 6, and it runs for many pages. We
18 refer to every single, by date, every single set of
19 minutes that contains a fact of note.

20 MR. EVAN: Okay, 21, though, is a response to
21 facts, as I understand it, that you are relying upon.
22 What I would like to know is I would like to have the
23 identification of documents.

24 MS. CARROLL: Okay, how about this. On page
25 8, 3/1/88, "nuclear safeguards committee minutes."

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1 MR. EVAN: Yes.

2 MS. CARROLL: Boyd's letter presents concerns
3 about safety of hot cell storage pool and storage of
4 cobalt 60. Those minutes of 3/1/88, as you can see by
5 that reference, are pertinent.

6 MR. EVAN: Okay, I have no problem with that.

7 MS. CARROLL: Okay now, what we find is you've
8 got people eating, smoking, and drinking in the radiation
9 areas, and never again is that issue addressed in year's
10 worth of minutes. So that's why you have to look at all
11 the minutes.

12 We can't fight omissions by dates, but you
13 need to look at all of them to make sure we're right.
14 They never followed up on that. They never followed up on
15 the bismuth block leak.

16 MR. EVAN: Well, I am not meaning to argue.

17 MS. CARROLL: And we think that is a weakness
18 of management.

19 MR. EVAN: Yes.

20 MS. CARROLL: That's why all the minutes are
21 important.

22 MR. EVAN: But you have identified --

23 MS. CARROLL: But you can still see, if you'll
24 read that chronological list, every single minutes that we
25 intend to rely on facts contained within the minutes, are

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1 listed.

2 MR. EVAN: Okay. I would like you, though, if
3 you would, if you give us, even if it's every minutes, so
4 that we make sure: A, that now minutes are missing; that
5 we are reading from the same list you are. If you --

6 MS. CARROLL: Okay, they're in Dr. Karam's
7 care. So we are all taking our chances.

8 MR. EVAN: All you have to do though is
9 identify them. You say all minutes. If you just identify
10 them, like on the NRC inspection reports, you give the
11 date. I have no problem with that.

12 MS. CARROLL: Well, we intend to rely on all
13 of the minutes from 1986 through 1995. There are minutes
14 that haven't yet been typed up and put in there, and we
15 will subpoena them or whatever.

16 MR. EVAN: So is there any problem with your
17 identifying the minutes by date?

18 MS. CARROLL: I've said my piece.

19 MR. EVAN: No, I am asking you --

20 MS. CARROLL: You're having a problem. Maybe
21 you are working hard enough.

22 MR. EVAN: Maybe I'm not, but could you make
23 my life easier if you could identify the minutes by date?

24 MS. CARROLL: But they are identified in the
25 answer to Interrogatory No. 21 as to content, and we want

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1 all the minutes. Sorry, that's what we are planning to
2 rely on, all of them. And you can refer to the unanswered
3 NRC question No. 21.

4 CHAIRMAN BECHHOEFER: Let me interject with
5 just a question. Would GANE even know the dates of all
6 the minutes. the ones they've referred to are the ones
7 they've had access to. I understand, but if there were
8 others, they might not even know those dates.

9 And their claim is that certain things were
10 never considered or reconsidered in any later meeting,
11 presumably with the implication that they should have
12 been, whatever the matter was should have been.

13 My question is would GANE even know what the
14 dates are?

15 MR. EVAN: I assume that they've reviewed
16 them. They would have, but maybe I'm wrong.

17 MS. CARROLL: Well, we did. And we made notes
18 of the ones that are listed. And as certain things came
19 up like the eating, drinking, and smoking in radiation
20 areas, we specifically looked for follow-up discussion or
21 resolution to those problems and made a note if it was not
22 apparent through the ten years of minutes that we
23 reviewed.

24 As far as actual dates of the minutes, I would
25 suggest that you, sir, would have an easier time than us

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1 since you're working for Dr. Karam. If you would get down
2 to, you know, I mean they are supposed to be quarterly.

3 It looks like they sometimes met more
4 frequently than that. Anyway by Friday, I don't think we
5 can go back down there and write down every date.

6 MR. EVAN: Well, let me ask you this. If I am
7 correct, if I understand you this may not be a problem.
8 If you say that the only -- when you refer to all minutes
9 from nuclear safeguards committee, if you are telling me
10 that the only relevance you see to those would be the
11 omission of something, I don't have that much of a
12 problem.

13 What I don't want to be faced with is you
14 coming up from some minutes, from some year I don't know,
15 that's not listed or identified anywhere, and having
16 something in there having nothing to do with smoking,
17 drinking, or whatever you say is omitted.

18 MS. CARROLL: No, we've stated every fact
19 that was seen in the minutes by date. We've referred date
20 in the minutes, in those cases.

21 MR. EVAN: Okay.

22 MS. CARROLL: And like I said, that's under
23 the question, NRC question No. 21.

24 MR. EVAN: Okay. And I am not asking --

25 MS. CARROLL: Okay, like I said, the reason we

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1 want to put all of them in is to shore up our case that
2 there are things that didn't get dealt with.

3 MR. EVAN: Okay. That doesn't bother me.

4 COURT REPORTER: This is the court reporter
5 interrupting for a moment. I would like to ask the
6 parties if we could have one person speak at a time. I
7 will be able to make a more coherent transcript. Thank
8 you.

9 MR. EVAN: That's fine if it simply to say
10 that these minutes, unidentified, do not show something.
11 What I don't want is a surprise, that there's something
12 affirmative in the minutes that they are going to rely on,
13 and I have no notice of that.

14 MS. CARROLL: We're clear on that.

15 MR. EVAN: Okay.

16 MS. CARROLL: Okay.

17 MR. EVAN: Then I have no problem.

18 CHAIRMAN BECHHOEFER: Okay, well anyway, I
19 understand that -- is the Friday filing date for
20 supplemental responses realistic?

21 MS. CARROLL: I'm not entirely comfortable
22 with it, because of one detail, which is locating a
23 notary. I know they're available everywhere.

24 But to have -- to have everything prepared
25 during the business day on Friday when I've got Wednesday

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1 and Thursday and I've got GANE volunteers out, you know,
2 trying to call these people in a rapid-fire manner, to
3 gather all of that into a document that can be notarized.

4 I'm assuming on Friday -- I mean, I can put
5 something in overnight mail on Saturday and Mr. Turk would
6 receive it in a timely fashion. It's getting that
7 notarization during business hours on a finished document
8 that is daunting me at this point.

9 MR. TURK: Your Honor, the Friday date is not
10 magical. It was a date which --

11 CHAIRMAN BECHHOEFER: Let me suggest one
12 thing. I don't know whether this will solve anything.
13 But this is based on Staff practice occasionally in other
14 cases that I've been involved in.

15 Often, the Staff will file responses, but not
16 under oath or -- not under oath, but follow it up several
17 days, maybe a week. later with the oath because they would
18 not have been able to get people from various -- from
19 various offices to sign the affidavit in that time frame.

20 Would it be useful to authorize just plain
21 filing followed within a short time, say no longer than a
22 week, by formal affidavits?

23 MR. TURK: Your Honor, I would not favor that
24 approach here.

25 CHAIRMAN BECHHOEFER: Pardon?

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1 THE COURT REPORTER: Who is speaking?

2 MR. TURK: This is Mr. Turk. When the Staff
3 does that, it's because the person has already prepared
4 the answer. But before the final typing could be
5 completed or before he had a chance to review the final
6 typing, he had to -- or he or she -- something -- couldn't
7 be there the same time as the notary.

8 But the answer itself has been reviewed and is
9 fine with that person.

10 CHAIRMAN BECHHOEFER: Well, I assume these
11 answers will have been reviewed.

12 MR. TURK: Well, that's the point. If --

13 CHAIRMAN BECHHOEFER: Whether the affidavits
14 are technically and formally prepared, I don't know why a
15 few extra days would --

16 MR. TURK: I don't oppose a few extra days,
17 Your Honor. I would say let GANE file it all at one time
18 under oath --

19 CHAIRMAN BECHHOEFER: Oh, I see.

20 MR. TURK: -- in one document.

21 CHAIRMAN BECHHOEFER: That's all right then.

22 MR. TURK: And I would not oppose the
23 extension of a few more days if GANE feels right now that
24 she -- or that they need it.

25 THE COURT REPORTER: This is the court

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1 reporter. May I ask which parties are speaking at the
2 moment?

3 MR. TURK: Sherwin Turk for the Staff.

4 THE COURT REPORTER: Thank you.

5 MS. CARROLL: Well, Mr. Turk, I guess what
6 I've been concerned about is getting you these names and
7 addresses so you can start your part.

8 And so it even occurred to me to supplement
9 what I can give to you by Friday so that you can start
10 working on what we can get together about.

11 If you would prefer to have everything all at
12 once and you're agreeable to giving me an extension, I
13 probably actually needed -- I don't know enough about what
14 I'm doing to really know what I need.

15 But it seems like it's a lot of work.

16 MR. TURK: Well, I -- Your Honor, this is
17 Sherwin Turk again. I frankly would prefer to have one
18 document. The discovery response -- the discovery
19 responses were due last July. We have to close discovery.
20 We have to decide if we're going to be taking depositions.

21 And really, I would like to see everything at
22 one time so that we could then decide is there a motion to
23 compel that needs to be ruled upon? Are there people that
24 we need to depose?

25 I think it's time to make that judgement. You

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1 know, if you need a few more days, I certainly don't
2 oppose that.

3 But I would like to get everything in already
4 so we can review them and move forward.

5 UNIDENTIFIED SPEAKER: How about that?

6 CHAIRMAN BECHHOEFER: Well, let me suggest --
7 what about a filing date of Tuesday, February 20th.
8 Monday the 19th is a holiday, so -- I think I have my
9 dates right.

10 Tuesday the 20th, is that too long or -- well,
11 then we -- by the way, we would have to extend the close
12 of discovery by some amount of days.

13 MS. CARROLL: Well now, maybe I'll be happily
14 surprised. But I don't think any of these people are
15 going to want to testify to GANE. And nobody wants to be
16 a snitch, you know?

17 I think that they do have something to tell.
18 I think they want to be subpoenaed and they want to be put
19 under oath.

20 And like I said, I may be surprised. But if -
21 - it's not going to be getting lots of affidavits and lots
22 of testimony, obviously it won't take us as much time to
23 supply addresses to everybody.

24 I don't think I'm revealing any strategy if I
25 let you all know that there is no way GANE is going to

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1 muster doing depositions. We just -- we cannot muster
2 that. We can't afford it.

3 And so, we're planning to do direct -- I think
4 what you call direct questioning.

5 CHAIRMAN BECHHOEFER: Testimony, direct
6 testimony.

7 MS. CARROLL: And all will be able to -- you
8 know, I mean, perhaps these people will be -- reveal
9 something whether -- oh God, you know, I just don't know
10 anything about the law here, you know, and getting
11 affidavits.

12 I mean, if they tell us something over the
13 phone, I suppose I have to get an affidavit and have them
14 sign off on that if I'm going to let you know what we're
15 going on.

16 Basically, I'm hoping there will be
17 indications in the file if they resigned and they were
18 unhappy, that that letter will be in their personnel file.

19 And I -- we just feel we need to hear from
20 these people and we need to let them tell their story.
21 What was it like working there?

22 If they want to get up there and say it was
23 fine, no problem, well, we ought to make short work of
24 them and get on to the next person.

25 MR. TURK: This is Sherwin Turk again. You're

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1 coming back to what we talked about as being a fishing
2 expedition. You have to know at this point what you're
3 case is going to be and tell us.

4 We -- I certainly, for the Staff, do not
5 intend to go to a hearing only to find out if there's
6 somebody who has evidence that hurts your -- or harms you
7 or helps you, and the same with respect to the parties in
8 this proceeding.

9 By now you should know what your case is, who
10 supports it, what the facts are, and you should be telling
11 us.

12 We should not have to go into a hearing room
13 to find that out for the first time.

14 MS. CARROLL: Well, we're outsiders. It's not
15 that easy to --

16 MR. TURK: But you're litigants, and this is
17 something that Judge Lam explained on the record at one of
18 our pre-hearing conferences, that litigation is very
19 serious business and you have to act in accordance with
20 the rules of litigation.

21 And that's not me, that's Judge Lam who said
22 that to you previously.

23 MS. CARROLL: Well, I guess then what I'm
24 contributing to the discussion is until we do contact
25 these people, until Georgia Tech makes these files

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1 available to us and we then can begin to contact these
2 people, I'm uncertain how much time we'll need, because I
3 don't know what response we'll have from these people and
4 how many of them will be willing to produce an affidavit
5 with us.

6 And I would hate to extend the proceeding
7 overly long if we don't need that long.

8 But how about this? I could, I suppose,
9 submit the document anytime it's ready. And at that time,
10 we can set the clock on the close of discovery.

11 MR. EVANS: Giving us time to depose the
12 people you identify as going to be -- who are going to be
13 your witnesses?

14 MS. CARROLL: I'm sorry?

15 MR. EVANS: I would still want to depose the
16 people you identify that you're going to put up as a
17 witness.

18 MS. CARROLL: Of course. I think that if the
19 deadline for discovery is extended, you will be the
20 beneficiary of that as well.

21 CHAIRMAN BECHHOEFER: Well, let me add one
22 thing. I'm not sure that it's a proper response to
23 discovery. Certainly, I don't think it has to include
24 affidavits of the individual witnesses.

25 I think if Glenn files an affidavit of her own

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1 saying that this is what they're going to talk about and -

2 -

3 UNIDENTIFIED SPEAKER: That's correct.

4 CHAIRMAN BECHHOEFER: -- and I think that's
5 probably sufficient. I don't think she has to go to each
6 witness and get an affidavit specifically.

7 UNIDENTIFIED SPEAKER: I would agree with
8 that. I don't see -- that's not required as far as I
9 know.

10 THE COURT REPORTER: Who is speaking right
11 now?

12 CHAIRMAN BECHHOEFER: Yes, just identification
13 of a particular witness plus a general description of what
14 -- generalized description of what they're going to talk
15 about, what they have to say: either that they -- well,
16 whatever the -- whatever the gist of their testimony will
17 be.

18 MS. CARROLL: Well now, what if Rob Johnson is
19 the one who makes the call to the Bill Downs, gets his --
20 you know, makes notes of this conversation and calls me?
21 Does Rob need to put in an affidavit of all the work he
22 does or again, if he passes that info on to me and I sign
23 off on it?

24 MR. EVANS: The only person that I'm aware of,
25 and I'm going back to court, that has to put an affidavit

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1 in in support of -- it's not really an affidavit, but
2 verifying the discovery, interrogatory response under Rule
3 33 of the Civil Rules, which I'm sure has its counterpart
4 in this proceeding, you have to have a person sign it, the
5 person who prepares it.

6 And then that person also has to -- you have
7 an affidavit that to the best of his knowledge,
8 information and belief, it's true. And that -- usually,
9 that person is among those we would want to depose.

10 If you sign it, we would want to depose you as
11 to all these documents and see why you think that they tie
12 into whatever you think they show.

13 THE COURT REPORTER: This is the court
14 reporter. Is this Mr. Evans speaking presently?

15 MR. EVANS: Yes.

16 THE COURT REPORTER: Thank you.

17 MR. EVANS: And but I think all you need is --
18 the witness is all you need. As I think Judge -- I think
19 he's already explained it clearly.

20 All you need -- as far as answering the
21 interrogatory and the witness, identifying the witness,
22 all you have to do is give him name, address, rank, serial
23 number, all those things.

24 And then you will give the gist of what he's
25 going to say, what you think he -- what he's going to

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1 testify; if he's going to testify that Karem is a middle-
2 eastern terrorist, or whatever he's going to say.

3 And that gives us a fair shot when we depose
4 him to know what to talk to him about. We're going to
5 talk to him obviously about his anticipated testimony.

6 And that's what we do when we get the
7 information from you. We don't want to go and spend five
8 hours talking to him about everything in the world. We
9 want to talk to him about what he's -- what his opinion is
10 or what his views are.

11 Does that help at all?

12 MR. TURK: Your Honor, this is Sherwin Turk.
13 I don't disagree with what Mr. Evans has just stated or,
14 Your Honor, with your statement to GANE that she does not
15 need the affidavit of each person who she expects to call
16 as a witness.

17 But what we do need is a signed, under oath or
18 affirmation, statement by the person providing the
19 interrogatory answer.

20 MR. EVANS: Yes.

21 MR. TURK: If that's Glenn Carroll, that's
22 Glenn Carroll, based on her knowledge and information, not
23 just her belief as to what the people will say.

24 The interrogatory answer we had up until now
25 was based solely upon Glenn Carroll's belief or

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1 speculation or supposition that if she found these people,
2 this is what they would probably have to say.

3 And she made that statement without ever
4 having talked to the person and without knowing whether
5 that person, in fact, was going to make the kind of
6 statement that she was representing would be made.

7 So that when we get an interrogatory answer
8 that's proper, it will be based upon her knowledge and
9 information and belief.

10 MR. EVANS: Yes, I accept that.

11 MS. CARROLL: Mr. Turk, I'd just like to say
12 that the way you represented that sounds like I was up to
13 something and --

14 MR. TURK: No, no slur intended.

15 MS. CARROLL: -- that what I submitted was a
16 naive document on the interrogatory.

17 MR. TURK: I agree with you, Glenn. I
18 certainly did not intend to slur. But the point was that
19 the interrogatory answer was not sufficient as it was.

20 And what we are looking for is a proper
21 discovery answer.

22 CHAIRMAN BECHHOEFER: Ms. Carroll, I think
23 it's enough if you -- you can sign the affidavit to the
24 extent that these people are going to be your witnesses
25 and the general -- in general what each is likely to say,

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1 that you expect they will say.

2 And I think that -- that will be -- that will
3 be sufficient to properly respond. You're --

4 MR. TURK: I assume -- Your Honor, this is
5 Sherwin Turk. I assume that you're -- you're agreeing
6 with me statement or accepting me statement that it has to
7 be made on knowledge and information, not just her
8 expectation or her belief?

9 CHAIRMAN BECHHOEFER: Well, it should be
10 knowledge or information, yes. Yes, it should be. But
11 that means the knowledge came from talking to these people
12 or -- and if one of your other representatives, one of the
13 other people doing work for you, talks to them and tells
14 you, that is still your -- your knowledge.

15 I don't think you have to talk personally with
16 everybody. Just assume you're the head of a big law firm
17 with a lot of people working for you.

18 MS. CARROLL: Interesting picture.

19 CHAIRMAN BECHHOEFER: Well, we just want to
20 treat you like a normal law firm would be treated.

21 MS. CARROLL: Come on, you can do better than
22 that. I want sympathy.

23 CHAIRMAN BECHHOEFER: Oh.

24 MS. CARROLL: Well so, shall we then -- what
25 was the deadline that you had suggested, the 20th?

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1 CHAIRMAN BECHHOEFER: Well, I don't -- it's up
2 to you. That would be -- it is -- that would accommodate
3 the holiday in there. If you filed something by the 20th,
4 which would get to the Staff later that week at least --

5 MS. CARROLL: Right.

6 CHAIRMAN BECHHOEFER: -- and to Georgia Tech,
7 the end of discovery then would have to follow that by --
8 I don't know -- I don't know how much time people would
9 want, but --

10 MS. CARROLL: Well, I think that is an issue
11 we should, you know, get acquainted with right now, is how
12 much are we extending the entire process by doing this.

13 CHAIRMAN BECHHOEFER: Yes. Ideally, it would
14 be nice to be able to hold the hearing prior to the
15 Olympic games and the influx of people for the Olympic
16 games.

17 MR. TURK: Your Honor, do we know when the
18 pre-game activities begin?

19 CHAIRMAN BECHHOEFER: I don't personally,
20 but --

21 MR. EVANS: Well, it's in -- it's in July.

22 MR. TURK: Will there be anything in Atlanta
23 in June, any Olympic-related activities?

24 MR. EVANS: I don't think enough it would
25 bother anything.

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1 CHAIRMAN BECHHOEFER: We're likely to --

2 MR. EVANS: There will be a gradual build-up,
3 I'm sure, of people, committees and people coming into
4 town. But as far as ceremonies and all that, no, not to
5 my understanding.

6 MR. TURK: I imagine that hotel rooms will
7 become more and more difficult to get as different
8 correspondents from around the world come in: newspapers,
9 television stations --

10 MR. EVANS: Yes. Probably -- I imagine you're
11 going to be fairly safe toward -- until the end of June.
12 I think from even the start of July, it's going to be
13 impossible.

14 CHAIRMAN BECHHOEFER: What is the official
15 start, mid-July or --

16 MR. EVANS: I think it's somewhere mid-July.
17 I don't have it before me. My own tickets are end of July
18 and August.

19 MS. CARROLL: We're going to the badminton
20 finals on August 1.

21 MR. EVANS: Yes, the --

22 MS. CARROLL: They're going to be well
23 underway in July.

24 MR. EVANS: Yes, it starts, I think, around
25 mid-July is my kind of gut feeling. But that's not -- it

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1 runs about five weeks.

2 CHAIRMAN BECHHOEFER: Okay. Well, there
3 should be plenty of time then. What's -- what are
4 people's thoughts? Say we get a filing of the -- well,
5 put it in the mail by the 20th, post-marked by the 20th,
6 get to most people by the 24th or 25th.

7 How much further discovery time do the parties
8 think they might need, just arbitrarily and we'll come up
9 with a --

10 MR. EVANS: Okay, this is Al Evans. The big
11 problem I see on that is I do not, at this point, or none
12 of us do, know how many people GANE will identify as
13 witnesses they intend to call.

14 MS. CARROLL: Plan on lots.

15 MR. EVANS: What?

16 MS. CARROLL: Plan on more than 20.

17 MR. EVANS: Okay, well --

18 MS. CARROLL: Because there's been a parade of
19 people there. That's interesting.

20 MR. EVANS: Yes. Well, if -- but I mean I'm
21 talking about people that you identify and that you are
22 going to have come forth and testify at the hearing.

23 MS. CARROLL: Yes. I'm saying for the sake of
24 argument, plan on 30.

25 MR. EVANS: Okay. Well, if we're going to

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1 depose 30 people, that's probably several months.

2 MR. TURK: Your Honor, I don't know -- this is
3 Sherwin Turk. I don't know if, in fact, we'll see 30
4 witnesses from GANE. And at some point, Your Honor may
5 decide that the evidence is cumulative and decide not to
6 accept that many people.

7 But if, in fact, GANE does identify 30 people
8 as witnesses, we certainly will have to know what it is we
9 should be expecting them to say, and that may require
10 depositions.

11 I would think, Your Honor, that in terms of
12 how much time we need, after receiving Glenn's response,
13 we'll need to evaluate it. We'll need to decide if the
14 motion to compel requires a ruling so that we get further
15 supplementation.

16 We will also need to notice depositions or
17 request subpoenas. Out of fairness to the witness's
18 named, we should be allowing them at least ten days from
19 the date of issuance of a notice or subpoena before the
20 deposition is actually taken.

21 And we may end up needing several weeks of
22 deposition time. All of this may, in fact, push the
23 filing of testimony and hearings way into June.

24 And we may indeed at that point start getting
25 into problems with hotels and hearing space.

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1 I would therefore request that whatever it is
2 that GANE files in this next round is, in fact, her final,
3 or GANE's final, supplementation except to the extent that
4 it's incomplete due to deficiencies and requires a Board
5 ruling to correct.

6 And I would also urge GANE to be selective in
7 its identification of witnesses so that we are not all
8 forced to go to the expense and effort and time of
9 deposing and hearing from multiple witnesses who have the
10 same thing to say if, in fact, that is what they have to
11 say.

12 MS. CARROLL: Okay. Mr. Turk, we are not --

13 CHAIRMAN BECHHOEFER: Let me ask a question.
14 Has either the Staff or Georgia Tech considered whether it
15 might be sufficient not to take a formal deposition of
16 each witness, but perhaps just interview them?

17 You could save a lot of time that way,
18 particularly if the scope of the testimony of each will be
19 very narrow or small.

20 MR. EVANS: That could be --

21 CHAIRMAN BECHHOEFER: It might save a lot of
22 time, and maybe you just need a few depositions. But if
23 you just call them up and interview them, that might be
24 sufficient.

25 MR. EVANS: I think that would possibly be

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1 true for some of the Georgia Tech employee witnesses like,
2 obviously, the director. I don't think we would need to
3 take his deposition. I wouldn't feel the need to take
4 his.

5 Anyone I can sit and talk to --

6 MS. CARROLL: But you ought to put him under
7 oath.

8 MR. EVANS: No, I'm just talking about for my
9 purposes. And I don't --

10 CHAIRMAN BECHHOEFER: Here it clearly will be.

11 MR. EVANS: I can think of some people that I
12 could proceed that way. But on the other hand, I would
13 almost certainly want to depose any -- any witness which
14 is, in any way, hostile or adverse.

15 I shouldn't even say "hostile." But I would
16 want to depose any adverse witness that's mentioned,
17 whether it's Millspaugh, Sharpe or Boyd.

18 Obviously, I would want to depose them, among
19 other things, to have a basis for cross examination.

20 CHAIRMAN BECHHOEFER: Well, can't you find a
21 lot of that information out first by telephone? And then
22 if you have to follow up with a deposition, you can do
23 that then.

24 THE COURT REPORTER: Is this Judge Bechhoefer
25 speaking?

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1 CHAIRMAN BECHHOEFER: Yes, this is Judge
2 Bechhoefer, right.

3 THE COURT REPORTER: Okay, thank you.

4 MR. TURK: Your Honor, speaking for the Staff,
5 I don't know that, in fact, we will take depositions of
6 every named witness. But we would lean that way.

7 And the reason is not because we simply use
8 discovery to find out what the person is likely to say.
9 We also need to find out what the flaws are in that
10 expected testimony.

11 Is it, in fact, true? Does it withstand
12 challenge?

13 And you cannot test a person's anticipated
14 statements unless you have the person under oath and
15 subject that person to cross examination.

16 And we certainly would not be prepared at this
17 point to waive the right to depose named witnesses.
18 Depositions serve a much broader function than learning
19 what that person may be expected to say in his direct.

20 We also need to be able to test for cross
21 examination purposes.

22 MR. EVANS: This is Al Evans, and I would just
23 add to that that the deposition itself is a form of cross
24 examination in the preliminary sense.

25 CHAIRMAN BECHHOEFER: Yes. Well, we realize

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1 that certainly there's a right to take depositions if you
2 wish. But we could urge you to try to cut back on that
3 right to the extent possible and perhaps with the result
4 that further cross examination might be needed.

5 And we would not restrict you too much on
6 that. If you did not take their depositions early, we
7 might give you a bit more leeway there on cross
8 examination when they appear as witnesses.

9 MS. CARROLL: Isn't this something that should
10 be evaluated once GANE submits its improved --

11 MR. EVANS: It depends who they are, that's
12 true.

13 MS. CARROLL: -- supplemental answers and we
14 set a date? I mean, a couple of months of depositions --
15 I mean, let's see now. When we first started this, GANE
16 was going to submit something on December 15th and then we
17 were going to close this on February second.

18 And then we moved it to January 5 and closing
19 it on February 23. That's roughly six weeks was what we
20 had originally intended for your deposition period, would
21 be roughly six weeks. Is that right?

22 CHAIRMAN BECHHOEFER: Well, we theoretically
23 can close discovery by maybe mid-April or maybe even early
24 April.

25 MS. CARROLL: What happens then that -- how

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1 much time is needed to get into the hearing?

2 CHAIRMAN BECHHOEFER: Well, for -- normally,
3 many witnesses will have prepared testimony which will be
4 submitted in advance, what, 15 days, I think, before the
5 hearing -- which is about 15 days before the hearing we
6 would have to -- should get to all the parties.

7 If -- most hostile witnesses, there would not
8 be prepared testimony and we would -- and I think we would
9 certainly provide a waiver for that of the requirement for
10 those kinds of witnesses.

11 So it depends in part on -- I'm sure all of
12 the Staff witnesses' testimony will be pre-filed. And
13 that saves quite a bit of time at the hearing, since their
14 testimony is then -- people will have gotten several weeks
15 early and the witness will just introduce the written
16 testimony into the record, subject to that oral cross
17 examination.

18 If the witness appears only orally, it will
19 take first some time for them to present their testimony,
20 but second, perhaps somewhat more time for the other
21 parties to be able to prepare their cross examination.

22 So additional time at the hearing would then
23 be required.

24 But for filing purposes, at least I would say

25 --

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(BOARD GOES INTO CONFERENCE.)

MS. CARROLL: I feel like I've been cut off.

CHAIRMAN BECHHOEFER: We just went on "mute" for a couple of minutes. We'll be back in a minute.

(BOARD GOES INTO CONFERENCE.)

MR. TURK: Your Honor, this is Sherwin Turk. I just want to note that when we come back on the record, I would like to address the question of limiting depositions and what we do about the time constraints.

CHAIRMAN BECHHOEFER: Okay. Why don't you do that now because we were just sort of calculating some times.

MR. TURK: All right, Your Honor. I want to make a very simple point. The reason why time is becoming compressed, and the reason why Your Honor may feel a need to limit the parties' ability to get depositions is because we're coming down towards the Olympics.

But that compression of time is due entirely to the fact that we have not yet gotten good discovery answers from GANE.

Ms. Carroll, herself, summarized it very nicely. And let me recap for a second. Her discovery answers were due in July, six months ago.

Then she was granted an extension until December 15th to supplement. She was then granted time

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1 until January fifth for that same supplementation.

2 She missed that deadline. She came in on the
3 11th of January with an inadequate response to which the
4 Staff said okay, we'll give you until February ninth.

5 MS. CARROLL: Maybe you would care to remark
6 that Georgia Tech failed to fulfill their discovery
7 requirements to us is the bottom-line reason.

8 MR. TURK: Well, that may be your explanation.
9 But in fact, we still have not gotten discovery responses.
10 The Board is now looking to give you until February 20th.

11 That's -- that's seven and a half months after
12 discovery responses should have been in. And although the
13 Staff is willing to say all right, let's take that date as
14 the cut-off date for your discovery responses, we
15 certainly don't think that all of those extensions of time
16 being provided to GANE should work against the Staff or
17 Georgia Tech's ability to take depositions of the people
18 that GANE finally comes in and identifies as its
19 witnesses.

20 MS. CARROLL: Shall we remark that --

21 MR. TURK: That's -- excuse me --

22 MS. CARROLL: -- Georgia Tech had an extension
23 --

24 MR. TURK: Excuse me. I'm sorry.

25 MS. CARROLL: -- until December 1 to fulfill

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1 their --

2 MR. TURK: May I complete my remark?

3 MS. CARROLL: -- discovery requests.

4 THE COURT REPORTER: I can only understand one
5 person speaking at a time. This is the court reporter,
6 sorry for interrupting.

7 MR. TURK: I'm sorry. This is Sherwin Turk.
8 I would like to complete my remark. The provision of
9 additional time to GANE should not work against the other
10 parties.

11 If that were to happen, I believe that would
12 be a prejudicial effect of our going along with GANE's
13 requests for extensions of time.

14 And it certainly would be unfair to us to have
15 that happen.

16 MS. CARROLL: Mr. Turk, aren't you at least
17 going to mention that Georgia Tech had an extension until
18 December 1 to fulfill their discovery requests and have
19 not done so yet?

20 I don't think this is all on GANE.

21 MR. TURK: All right. But that's certainly
22 within the realm of responses you can make on this. But
23 the point is, the other parties should not be limited in
24 their ability to depose your named witnesses because of a
25 compression of time. That would be unfair.

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1 And Your Honor, I would also ask one other
2 thing. In the next round of GANE supplemental answers, I
3 would hope, and I would ask Your Honor to rule, that that
4 constitutes the final time for GANE to identify its case.

5 No more names of people after that. This is
6 the time to get it right, get the case organized and let's
7 move forward.

8 MS. CARROLL: That depends on how Tech does in
9 fulfilling their discovery response, Mr. Turk, because
10 that's the only reason we can't give you the information
11 you want on your witnesses already.

12 MR. TURK: That's not correct. There are
13 other ways for you to get discovery other than simply
14 asking Georgia Tech to provide names.

15 You've been working with Mr. Boyd. You know
16 the names of the people who have worked there already.

17 You, yourself, indicated that GANE members are
18 contacting those people this week. That is something that
19 could have been done all along. That's something that --

20 MS. CARROLL: Excuse me.

21 MR. TURK: -- has been used as a means for --

22 MS. CARROLL: Excuse me.

23 MR. TURK: -- obtaining other names, other
24 than --

25 MS. CARROLL: Georgia Tech said they would

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1 provide us with personnel files for everybody that worked
2 at the facility since 1985, and they produced seven
3 personnel files and a weak excuse why they couldn't do
4 better than that.

5 And that is out of our power. In fact, maybe
6 the judges can rule on that. I don't know.

7 MR. TURK: Well, whatever --

8 MS. CARROLL: We're just simply trying to get
9 our information.

10 MR. TURK: I don't see how we can move to
11 hearing unless we get a close of discovery. And we can't
12 close discovery until we get complete answers or the court
13 or the Board sets a deadline for the filing of complete
14 answers.

15 MS. CARROLL: I will offer this, that given
16 that this is not a security contention, but is a license
17 renewal request and that the reactor is going to be shut
18 down during the Olympics anyway, that there is nothing
19 magic about the Olympics except that if we can't have a
20 hearing before it, we'll have to have a hearing after it.

21 JUDGE LAM: This is Peter Lam. I have a
22 remark to make in response to Mr. Turk's remark. I, for
23 one, was not one to restrict the right of the parties to
24 take depositions.

25 And this is the parties right to take

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1 depositions, so that right would not be restricted. That
2 is my view. Now Chairman Bechhoefer has something to say.

3 CHAIRMAN BECHHOEFER: Well, I think -- I don't
4 want to restrict the right of people to take depositions.
5 I was only inquiring whether they might consider in
6 certain cases that a full deposition was not necessary and
7 that a telephone inquiry might be sufficient.

8 Be that as it may, we think the -- when we set
9 the date of the 20th for filing, that would be a cut-off
10 really for GANE to define what its case will be, who its
11 witnesses are, et cetera. And --

12 (BOARD GOES INTO CONFERENCE.)

13 THE COURT REPORTER: Hello, is anybody there?

14 MR. EVANS: Yes, I'm here.

15 THE COURT REPORTER: Okay, I just --

16 MS. CARROLL: The judges went into conference.

17 THE COURT REPORTER: No problem.

18 CHAIRMAN BECHHOEFER: Okay, we're back on. We
19 pick the 20th -- if we pick the 20th as a brief -- as a
20 firm cut-off date for GANE to define its case, now can
21 GANE live with that?

22 MS. CARROLL: Well, I'll let you know. If
23 Georgia Tech has not performed, you know, we certainly
24 don't think we should be punished if they can't get their
25 personnel records together.

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1 And we will just indicate if that's been a
2 problem or not. But that's the only, you know, parameter
3 we think ought to be considered.

4 CHAIRMAN BECHHOEFER: Okay. Well subject to
5 that, we will -- we'll set the 20th as a cut-off date.
6 Now, can we get an estimated -- or a date by which -- if
7 that's the cut-off date, do we have any suggestions as to
8 a date by which we can end discovery?

9 Can that be -- would April first, more or
10 less, be too soon or not?

11 MR. EVANS: The only question is how many
12 witnesses are they going to identify? And I agree that
13 some, certainly Staff members, we can interview personally
14 and I don't -- I don't need their depositions. Speaking
15 for Georgia Tech, we don't need their depositions.

16 But equally certain is the fact that I would
17 be very uncomfortable about not taking the deposition of
18 anyone whose anticipated testimony is adverse to Georgia
19 Tech.

20 I just -- I can't -- I would feel very
21 prejudiced on not deposing a witness who could be
22 testifying against Georgia Tech.

23 CHAIRMAN BECHHOEFER: All right. Well, that's
24 certainly understandable, and we accept that.

25 MR. EVANS: I don't know how many. That's my

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1 problem on dates.

2 CHAIRMAN BECHHOEFER: What is April first?

3 Get a calendar so --

4 MR. EVANS: It's a Monday. It's April Fool's

5 Day.

6 CHAIRMAN BECHHOEFER: We're just looking for a

7 calendar now, but we'll take the latter comment into

8 account.

9 (BOARD GOES INTO CONFERENCE.)

10 CHAIRMAN BECHHOEFER: Okay, we will set, I

11 think, April first, which is a Monday. We'll set that as

12 the date for good cause. Of course, we could change

13 things.

14 But that would anticipate that -- the

15 testimony will be filed by?

16 (BOARD GOES INTO CONFERENCE.)

17 CHAIRMAN BECHHOEFER: Yes, that -- this will

18 anticipate that prepared testimony, to the extent that

19 will be used, will be filed around -- this is not a

20 precise date, but around May first.

21 And we could initiate the hearing in the

22 middle of May -- middle to the end of May, with

23 continuations into June to the extent necessary.

24 There will be some breaks for holidays and for

25 weekends. And we can work out a further schedule.

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1 But we'll tentatively set -- we'll set April
2 first as the end of discovery, subject to being changed
3 for good cause.

4 And at that point, at around that period of
5 time, we'll hold another conference call to set precise
6 dates. Perhaps we could even do it slightly earlier, but
7 April first or so, in that general time frame, we can
8 perhaps set dates -- dates for -- leading up to the
9 hearing: filing prepared testimony, et cetera, and
10 obtaining requests of various -- for various witnesses, if
11 this is applicable, not to file prepared testimony and
12 hostile witnesses particularly.

13 So I think that's what we'll set as a schedule
14 for now. And I guess the only date we're setting
15 exclusively is April first.

16 MS. CARROLL: But you still think a hearing
17 will be possible in June?

18 CHAIRMAN BECHHOEFER: I would think the end of
19 May we could start, with its being finished in June. I'm
20 not sure what dates are available for everybody.

21 (BOARD GOES INTO CONFERENCE.)

22 MS. CARROLL: It's probably a little early to
23 even ask that question until we get more process under our
24 belts.

25 This may be a naive question, and you can not

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1 answer it if it's --

2 CHAIRMAN BECHHOEFER: Okay, we're back on the
3 record now.

4 MS. CARROLL: But, you know, GANE didn't ask
5 Georgia Tech and the NRC who they're planning to call as
6 witnesses. So does that mean if they are planning to call
7 witnesses, they don't have to tell us because we didn't
8 ask?

9 MR. EVANS: As far as know. Well, I think
10 this would probably be developed pre-trial, or whatever we
11 call it, pre-conference -- pre-hearing conference. But I
12 think yes, you have to ask.

13 THE COURT REPORTER: Who is speaking right
14 now?

15 MR. EVANS: Al Evans.

16 THE COURT REPORTER: Thank you.

17 MR. EVANS: I mean, we're not obligated to --
18 if you put it in an interrogatory, which you haven't, then
19 we would be obligated to tell you, you know, who we're
20 intending to call as experts and the substance, the gist,
21 of their testimony.

22 But you haven't asked that. I would think
23 that it would probably be the sporting thing to do,
24 certainly by the next -- the hearing at the end of the
25 discovery for us, if you want us -- to know -- I mean, for

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1 us to communicate who our witnesses will be.

2 MS. CARROLL: Well, it seems like the basic
3 premise is that there are no surprises to anybody that you
4 sort of have to tell everybody, even if we don't ask. I
5 mean, if we can't bring up any facts that we haven't
6 already put into the record, if you will, later without
7 good cause -- also, I'm a little confused by Judge
8 Bechhoefer's reference to submitted testimony.

9 You say it ends on the 20th. Then on the
10 first, you start the clock for submittal of testimony.
11 And that starts contradictory.

12 MR. EVANS: As I understand, the 20th of this
13 month is the time for finishing the -- your supplementary
14 or additional response to the interrogatories and request
15 for production of documents. That's the 20th of this
16 month.

17 The first of April is -- the delay there is to
18 give us time to depose those people who you identify as
19 finally being the witnesses you are going to call.

20 MS. CARROLL: But then he referred to written
21 testimony or something being submitted after that.

22 MR. EVANS: That has to do with the actual, as
23 I understand it -- please someone correct me if I'm wrong.
24 My understanding is for your major witnesses, normally the
25 way you do it in this NRC proceeding, is rather than have

1 the witness come in and testify in court, giving his
2 vitae, his background and all that and then going on to
3 give his expert opinion and the basis for that, you do
4 that all in writing in a question and answer format, which
5 is done in writing.

6 And that saves the Panel an awful lot of time
7 rather than listening for a day and a half to some expert,
8 a lot of it, frankly, boring, and a lot isn't. But by
9 having it reduced to writing, it just saves an awful lot
10 of time.

11 And you still have the opportunity for cross
12 examining that individual. That's my understanding as to
13 the general format.

14 MS. CARROLL: One more question.

15 CHAIRMAN BECHHOEFER: We explained that at
16 some point during the last pre-hearing conference.

17 MS. CARROLL: Yes, but --

18 CHAIRMAN BECHHOEFER: But for witnesses that
19 are hostile, that may not be required. Anything more than
20 just a basic statement of what they are supposed to
21 testify to and the fact that if GANE is calling employees
22 or former employees of Georgia Tech, they may be hostile
23 witnesses.

24 There are others who may or may not be, and --
25 but we should get at least a statement before-hand that

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1 certain witnesses are considered hostile, that they would
2 be unwilling to prepare -- prepare testimony.

3 MS. CARROLL: Well if the NRC and Georgia Tech
4 are planning to call witnesses, their prepared testimony
5 will be made available to GANE along with all the parties,
6 right?

7 CHAIRMAN BECHHOEFER: Right. That's correct.

8 MS. CARROLL: Right.

9 CHAIRMAN BECHHOEFER: You will have a chance
10 to look at it. And if that will come in around May first
11 -- we're not setting that as an exclusive date, but it
12 will -- that's the time frame.

13 MS. CARROLL: That's helpful to me to know
14 that there's about a month of that. Then there's about
15 two weeks of us submitting our questions to you of what we
16 would like to ask these people, and for you to --

17 CHAIRMAN BECHHOEFER: Well n. No, no, you
18 never have to -- we may ask you to give to the Board at
19 the hearing an outline of your cross examination of
20 various witnesses.

21 But that won't go to the other parties, at
22 least not before the testimony.

23 MS. CARROLL: Well and obviously, an answer
24 that a witness gives will suggest a question that you
25 can't anticipate, right?

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1 CHAIRMAN BECHHOEFER: Well, your cross
2 examination of those witnesses, you do not have to outline
3 that to the other parties at all, the questions you
4 propose to ask the various witnesses.

5 You may have to give us an outline of what
6 your cross examination is going to be, mostly so we can
7 control its length and its -- whether it duplicates
8 matters, that type of thing.

9 MS. CARROLL: But that wouldn't preclude a
10 spontaneous question arising --

11 CHAIRMAN BECHHOEFER: No.

12 MS. CARROLL: -- from the testimony that's
13 being given?

14 CHAIRMAN BECHHOEFER: No. If it's based on
15 the answer that comes out, you can then have follow-up
16 questions as long as they're relevant to the answer. They
17 are certainly permissible. then follow with a question as
18 long as

19 No, the general you would -- in general, you
20 would be asked to outline for the Board only the subject
21 matter of the -- of what you propose to question each
22 witness about.

23 That you will know -- you will have -- several
24 weeks before the hearing, you will be given copies of the
25 testimony, and that will be around May first.

1 And then we'll probably have enough --
2 probably at least a week of hearing then in May. I don't
3 know the precise schedule and the precise obligations of
4 various parties --

5 MS. CARROLL: But you just said that --

6 CHAIRMAN BECHHOEFER: -- or the Board for that
7 matter.

8 MS. CARROLL: -- would be the end of May? Is
9 that what I heard you say, probably the end of May?

10 CHAIRMAN BECHHOEFER: No, I said probably the
11 first of May, you would -- well, toward the end or middle
12 of May, the hearing could very well start.

13 MS. CARROLL: Right. That's what I --

14 CHAIRMAN BECHHOEFER: Yes. The -- if -- I
15 think the rule is -- what is it, 17 days? Seventeen days
16 prior to the hearing, the prepared testimony of witnesses
17 that are going to be testifying that way will be filed.

18 Normally, I like to see every party be able to
19 have that in their hands a couple of weeks before the
20 hearing, and the Board itself. So we have to prepare a
21 lot.

22 So it will -- when we set exact dates, we will
23 take into account necessary travel time and all that kind
24 of stuff also.

25 MS. CARROLL: Well, my last question, and I'm

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1 kind of -- I think I know the answer, but I would really
2 like to know: Will Mr. Turk and Mr. Evans be supplying
3 GANE with copies of their depositions?

4 MR. TURK: Speaking for the Staff, no, Your
5 Honor. But GANE, as a party, is able to come and attend.

6 MS. CARROLL: We're able to attend?

7 MR. TURK: Yes.

8 MS. CARROLL: Oh.

9 MR. EVANS: Yes. You would be there.

10 MR. TURK: With certain limitations, but the
11 deposition is open for the parties to attend.

12 MS. CARROLL: What sort of limitations, that
13 we not be disruptive?

14 MR. TURK: Not be disruptive. If there are
15 any disruptions, we may have to go to the Board. We may
16 have to stop the deposition.

17 There should be no improper signalling or
18 coaching of witnesses. You know, if something improper
19 comes up, I'm sure we'll identify it at the time.

20 MR. EVANS: And I might add, no cross
21 examination at that time either.

22 MS. CARROLL: Right.

23 MR. EVANS: I mean --

24 MR. TURK: We cannot be compelled to allow you
25 to ask questions at that time. You may conduct your own

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1 deposition if you wish, but it will be at your expense.

2 MS. CARROLL: Well, I'm glad I asked that
3 question.

4 CHAIRMAN BECHHOEFER: Okay.

5 MR. TURK: I would --

6 CHAIRMAN BECHHOEFER: I have one further -- I
7 don't know if other people have other things they wish to
8 talk about, but I would like to just have an inquiry
9 before us. I think there's a motion to allow GANE to
10 inspect the property or go onto the property.

11 What is the status of that? Is that -- the
12 Board would not be inclined to accompany GANE as they
13 requested.

14 Otherwise, it appears to be just a form of a
15 discovery request. But what is the status of that?

16 MR. EVANS: If you're asking me, unfortunately
17 I don't know. I'm not sure what -- has Georgia Tech
18 replied to that? I can't recall that.

19 CHAIRMAN BECHHOEFER: No, we have received no
20 replies from anybody on that.

21 MR. EVANS: It's a discovery request?

22 CHAIRMAN BECHHOEFER: No, that's what we don't
23 even know.

24 MS. CARROLL: Yes, it is.

25 CHAIRMAN BECHHOEFER: It says it's -- if I can

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1 find a date on this. It was filed on --

2 MS. CARROLL: January 11th.

3 CHAIRMAN BECHHOEFER: -- January 11th, and it
4 says "Georgians Against Nuclear Energy request permission
5 to enter and inspect." That's what the heading is.

6 And the request is for either for the Board or
7 a member of the Staff to accompany them. That, we really
8 can't do anything -- well, the Board is not going to
9 accompany GANE on this inspection.

10 Whether GANE could convince one of the Region
11 II people to accompany them or not, that's between them
12 and Region II, I guess.

13 MR. TURK: Speaking for the Staff, Your Honor,
14 I don't see any reason why we would want to put our
15 resources into going on a field trip with GANE.

16 I would note, however -- I don't know if
17 Georgia Tech has seen this or if Mr. Evans has it in front
18 of him. The request to inspect has to do with the
19 question of whether the fuel at the site is being prepared
20 for shipment off the site.

21 MS. CARROLL: No, this has to do with the
22 presence of spent fuel and fresh fuel, which in the
23 discovery, Georgia Tech said there is none there.

24 Since we were unable to find any documents
25 about its removal, we think that's a falsehood. And we

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1 want to go in there and look for ourselves.

2 MR. TURK: Have you ever defined what you mean
3 by "fresh" and "spent fuel?"

4 MS. CARROLL: Fresh fuel is weapons-grade
5 uranium. And now, there is a load of irradiated fuel in
6 the reactor which, any day now, should be moved out in
7 preparation to be moved out of Atlanta for the Olympics.

8 We've got mixed information as to -- there's
9 apparently a 90-day cool-down period before it can be put
10 into the DOE cask.

11 We had originally interpreted that it had to
12 cool down in the reactor for 90 days. We've been told
13 that's not true. It could have been removed and put into
14 the storage pool.

15 We don't believe that's been done. But
16 anyway, that is not the fuel in question here.

17 There is fresh fuel, which is kept in a very
18 vulnerable place, and they say it's not there. So we'll
19 go in and see for ourselves if it isn't there. If it is
20 there, then, you know, we've got a lie that we have to
21 deal with.

22 Anyway, that's what we're after. Do you
23 understand that, Mr. Turk?

24 MR. TURK: I understand what you're asking.
25 I'm looking for your interrogatory that raised that

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1 question.

2 MS. CARROLL: Oh, okay. I might be able to --

3 CHAIRMAN BECHHOEFER: Separate motions.

4 MR. TURK: No. But GANE is referring to an

5 answer to an interrogatory which Georgia Tech --

6 MS. CARROLL: By Georgia Tech.

7 MR. TURK: -- provided to GANE.

8 MS. CARROLL: That's right. It's a lengthy

9 document, so it could take us a minute to find it.

10 MR. TURK: My recollection was that that
11 related to the security contention, although I understand
12 now that GANE is now saying well, this may be a false
13 statement. Therefore, it bears upon management.

14 MS. CARROLL: They answered the question. Do
15 you know what I'm saying? They chose to answer the
16 question. I think they could have maybe said it was a
17 security question, but they didn't.

18 And it becomes a management issue to us if
19 they're playing it straight or not about what's on-site
20 there.

21 In fact, if they're claiming now that it has
22 already been moved and it hasn't, then we would take that
23 as being that they do not intend to move it now when they
24 are moving the rest of the fuel, which of course, we've
25 raised that question too. And I don't know who's going to

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1 get to the bottom of that.

2 MR. TURK: I think there may be a semantic
3 issue involved, and that is what does "fresh fuel" mean
4 and what does "spent fuel" mean. I do see your
5 interrogatory 14 said: "Where is the spent fuel?"

6 And Georgia Tech's response was, "GTRR has no
7 spent fuel. All fuel is used in the reactor."

8 MS. CARROLL: Right.

9 MR. TURK: And then you -- number 15 said, "Is
10 there a load of fresh fuel on the premisses? If so, where
11 is it?"

12 And the response was, "Georgia" -- I'm sorry,
13 "GTRR does not have a load of fresh fuel on the
14 premisses."

15 So it may be that the question was what was
16 intended in your interrogatory and what was intended in
17 the response. And maybe a clarification of that would
18 serve you well rather than a need to inspect.

19 But I really can't speak for Georgia Tech or
20 why they made the answers they made, or what they'll do in
21 response to your request to inspect. I think that's Mr.
22 Evans' call.

23 CHAIRMAN BECHHOEFER: Your Honor, if Georgia
24 Tech indicates whether it has any objection to allowing
25 Mr. Carroll or a GANE representative to go on-site for the

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1 purpose -- to look at what they want to look at, if
2 there's no objection, we don't even have to discuss it.

3 MR. EVANS: I don't know of any. I would --
4 obviously, I want to discuss it with the Georgia Tech
5 folks to see if they have any problem with it. I don't
6 know of any.

7 (BOARD GOES INTO CONFERENCE.)

8 CHAIRMAN BECHHOEFER: I think -- why don't --
9 why doesn't Ms. Carroll just call Georgia Tech and try to
10 arrange for a visit? And then if there's any objection,
11 then you could come back to us.

12 But I don't think we have anything to decide
13 right now. Treat it as a discovery request. That's a
14 form of discovery that's permissible.

15 So, any objections would have to be brought to
16 us. But beyond that, I don't -- I don't see that we have
17 to take any actions. I would hope not to have to.

18 Anything further on that?

19 JUDGE LAM: This is Peter Lam. I want to
20 share with all the parties the intent of the schedule
21 here. The Board -- the Board's intent is to have the
22 hearing in the first part of June --

23 CHAIRMAN BECHHOEFER: No, May, last part of
24 May.

25 JUDGE LAM: Last part of May or first part of

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1 June, yes, we then hold it and then hopefully finish the
2 whole hearing before the Olympics. But that is the
3 intent.

4 And if that cannot be accomplished, I guess
5 everybody should be aware that perhaps things will not be
6 completed until after the Olympics. That would be --

7 CHAIRMAN BECHHOEFER: Right. I think the
8 parties understand that. We're not locked into a
9 schedule, but we hope we've set up a framework for what we
10 think would be a desirable schedule. Hello?

11 MR. TURK: Yes, Your Honor, we're on.

12 CHAIRMAN BECHHOEFER: Okay, I wasn't sure. I
13 just hope the parties understand that. While we haven't
14 locked in a definitive schedule, we've set a few dates.

15 And our hope is that perhaps even mid-May, but
16 the end of May, hold the first hearing session. We'll
17 probably do it in terms of a week or maybe four days.

18 Or perhaps the hearing could be that people
19 could fly down in the morning and start in the afternoon
20 and run until -- run throughout a week.

21 It depends on availability of witnesses and
22 that type of thing, and particular times in part. So --

23 MR. TURK: Your Honor, also -- this is Sherwin
24 Turk -- we may need to file motions in limine prior to the
25 commencement of the hearing when we see how many witnesses

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1 are proposed and what the scope of the proposed testimony
2 is.

3 For instance, if GANE puts forward Ms.
4 Blackey-O'Brien and the pre-filed testimony is very far-
5 ranging, we may need to limit some of that.

6 Or if they put forward 20 witnesses who will
7 eventually say the same thing, we may need a motion to
8 preclude the introduction of repetitive and cumulative
9 evidence.

10 So there may be some pre-hearing motions that
11 will need to be filed in the time before the hearing
12 commences.

13 I just note that because I have some concerns
14 about what we may see in our discovery supplementation.

15 CHAIRMAN BECHHOEFER: Right. Well, I don't
16 think you need leave of the Board to file such motions.

17 MR. TURK: That's right. But we may need a
18 little time for ruling and consideration of things like
19 that.

20 CHAIRMAN BECHHOEFER: Yes.

21 MR. TURK: I guess if you're not setting any
22 dates today other than the February 20th and the April
23 first date --

24 CHAIRMAN BECHHOEFER: That's correct.

25 MR. TURK: -- we can always adjust -- or

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1 request adjustment from the further schedule after that.

2 CHAIRMAN BECHHOEFER: Right. Yes, that's
3 exactly what we anticipate. Okay, is there anything
4 further that any party wishes to raise before we -- the
5 transcript will be -- we ordered a two-day transcript.

6 So to the extent parties wish them, they will
7 be ready two days from now. Theoretically, they should be
8 in our hands.

9 Ideally, a transcript -- Mr. Turk, do you know
10 what the status is, if anything, of the local public
11 document room is?

12 I'm wondering where a transcript could be
13 accessible to GANE if they --

14 MR. TURK: I have no idea, Your Honor. I've
15 never heard back from the LPDR people. I don't know if
16 they were -- if they're thinking about setting something
17 up or if they're moving that way.

18 They have not communicated with me after I put
19 in the request to them.

20 CHAIRMAN BECHHOEFER: Right. Well, I assume a
21 transcript, at some point, will get into the Georgia Tech
22 files. It could be made available that way to GANE for
23 them to refer to.

24 MS. CARROLL: If I went on-line and used
25 NEWDOCS, that would make available everything that's in

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1 the public document room. Isn't that right?

2 CHAIRMAN BECHHOEFER: That's right. It takes
3 sometimes longer than the staff intends. The staff -- I
4 don't mean lawyers, but the people who run the public
5 document room.

6 I think they would like to have everything
7 there within a week or so, or maybe even better. But it
8 doesn't happen.

9 MR. TURK: Your Honor, I'm not sure that the
10 documents themselves are provided --

11 CHAIRMAN BECHHOEFER: No, microfiche.
12 Microfiche are.

13 MR. TURK: No, but if somebody accesses on-
14 line, I don't know they would get anything more than
15 simply an extension list --

16 CHAIRMAN BECHHOEFER: Oh.

17 MR. TURK: -- rather than, you know, the
18 actual microfiche of a -- of the document.

19 CHAIRMAN BECHHOEFER: I think that's probably
20 right.

21 MS. CARROLL: But what you can do is you can
22 maybe become aware of a document that looks like it may
23 have something that you're interested in. But then you
24 still have to go get the microfiche or the document.

25 MR. TURK: That sounds reasonable, although I

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1 have no knowledge on it.

2 CHAIRMAN BECHHOEFER: Yes, I'm not
3 specifically aware, although I would think that the
4 Commission would want to have a transcript available of
5 the -- available in the immediate vicinity of the hearing.

6 But whether that happens or not, I don't know.
7 I would hope it would, but -- but I would think that the
8 Georgia Tech files that are available to the public, the
9 transcript would be included in that, eventually at least.

10 But again, that's not Georgia Tech's
11 obligation. That's federal law in any event, maybe under
12 state law. I'm not trying to decide that.

13 Okay, is there anything further before we
14 adjourn?

15 THE COURT REPORTER: The court reporter has
16 some technical questions for the transcript, but
17 otherwise, no.

18 CHAIRMAN BECHHOEFER: Okay.

19 MS. CARROLL: Well, I would like to say I
20 think that it's difficult for you to work with a non-
21 lawyer. And I appreciate how polite you have been and how
22 patient you have been.

23 CHAIRMAN BECHHOEFER: Well, some of these non-
24 lawyers learn pretty fast. Maybe they'll be lawyers by
25 the time the proceeding is finished.

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1 So anyway, what does the court reporter need
2 to ask?

3 THE COURT REPORTER: Okay, basically I need --
4 I need Mr. Evans' business address and phone number.

5 MR. EVANS: Okay, my business address is --
6 it's Alfred L. Evans, Jr., Senior Assistant to Attorney
7 General, 232 State Judicial Building, Capitol Square,
8 Atlanta, Georgia 30334.

9 THE COURT REPORTER: And phone?

10 MR. EVANS: Is (404) 656-3389.

11 THE COURT REPORTER: 3389, okay. And from the
12 U.S. Nuclear Regulatory Commission, it's the Washington
13 D.C. 20555 address, Mr. Turk?

14 MR. TURK: That would be fine.

15 THE COURT REPORTER: And the phone number?

16 MR. TURK: My phone number is (301) 415-1575.

17 THE COURT REPORTER: 1575. Let me get the
18 appearances correct. For the NRC, it was Mr. Turk and Ms.
19 Woodhead present, with Mr. Mendoza as the technical
20 representative?

21 MR. TURK: Correct.

22 THE COURT REPORTER: Okay. Georgians Against
23 Nuclear Energy, I have 139 Kings Highway, Decatur,
24 Georgia. Is that correct?

25 MS. CARROLL: That's right.

1 THE COURT REPORTER: 378-9542?

2 MS. CARROLL: That's right.

3 THE COURT REPORTER: Okay. Then there were
4 just a few names that were mentioned: Mr. Sharpe, is that
5 S-H-A-R-P?

6 MS. CARROLL: "E."

7 THE COURT REPORTER: "P-E?"

8 MS. CARROLL: Yes.

9 THE COURT REPORTER: Boyd, B-O-Y-D?

10 MS. CARROLL: That's right.

11 THE COURT REPORTER: Downs, D-O-W-N-S?

12 MS. CARROLL: That's right.

13 THE COURT REPORTER: Newby, N-E-W-B-Y? Peter
14 Newby?

15 MR. TURK: That's correct.

16 MS. CARROLL: You've got to ask how to spell
17 Millspaugh.

18 THE COURT REPORTER: Yes, I do.

19 MR. EVANS: M-I-L-L-S-P-A-U-G-H.

20 THE COURT REPORTER: P-A-U-G-H.

21 MR. EVANS: I remember it well.

22 THE COURT REPORTER: Walovick, Gary.

23 MS. CARROLL: Oh boy, I'll let you do that
24 one, Mr. Evans.

25 MR. EVANS: I think it's -- I'm guessing a

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1 little bit. W-O-L --

2 MS. CARROLL: No, it's W-A-L-O --

3 MR. EVANS: V-I-C-K?

4 MS. CARROLL: I think so, because it's a hard
5 scound on the end, "vick."

6 THE COURT REPORTER: Okay, I thought I heard
7 someone mention a name by "Boshart" or "Borshart." Does
8 that ring a bell with anybody?

9 MR. EVANS: Okay, Walovick -- excuse me, I
10 have it written down as Wolovick.

11 MS. CARROLL: It could be. You should know
12 better than me.

13 MR. EVANS: But I'm possibly wrong. I often
14 am.

15 THE COURT REPORTER: Ms. Carroll, you
16 mentioned something that was a "lock-leak" of some sort,
17 and I don't remember what the first word was.

18 MS. CARROLL: Bismuth, B-I-S-M-U-T-H, block,
19 B-L-O-C-K.

20 THE COURT REPORTER: Block, okay, leak. Okay,
21 and Mr. Evans, are you interested in ordering a transcript
22 of this conference?

23 MR. EVANS: I think I probably should.

24 THE COURT REPORTER: Okay. And we should
25 contact you at that phone number?

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1 MR. EVANS: Yes sir. Did you say can you
2 contact me at this number?

3 THE COURT REPORTER: Yes, the (404) 656
4 number.

5 MR. EVANS: Yes, (404) 656-3389.

6 THE COURT REPORTER: Okay, and GANE, we should
7 contact you at the 378 number?

8 MS. CARROLL: Yes, but we can't afford it.

9 THE COURT REPORTER: Okay. And Mr. Dewey, is
10 he still on the line and was he present for the
11 conference?

12 CHAIRMAN BECHHOEFER: He was present for about
13 the first half or three-quarters of the conference. He
14 had to leave. His name is spelled D-E-W-E-Y.

15 THE COURT REPORTER: Okay. And who should he
16 appear as being --

17 CHAIRMAN BECHHOEFER: He's Counsel to the
18 Atomic Safety and Licensing Board Panel.

19 THE COURT REPORTER: Okay, Atomic Safety and
20 Licensing -- oh, it's a panel and not a board?

21 CHAIRMAN BECHHOEFER: Oh no, we're the Board.

22 THE COURT REPORTER: Okay, and he works for
23 the panel?

24 CHAIRMAN BECHHOEFER: He works for the panel,
25 which is all the boards and all the judges.

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1 THE COURT REPORTER: Okay. And this is Docket
2 No. 50-160-OM?

3 CHAIRMAN BECHHOEFER: No, it isn't.

4 THE COURT REPORTER: Okay.

5 CHAIRMAN BECHHOEFER: 550-160-REN.

6 THE COURT REPORTER: Okay. And does this have
7 --

8 CHAIRMAN BECHHOEFER: For renewal. The other
9 one is closed.

10 THE COURT REPORTER: And so this doesn't have
11 an "ASLBP" number?

12 CHAIRMAN BECHHOEFER: Oh, yes it does.

13 THE COURT REPORTER: Okay, what's that number?

14 CHAIRMAN BECHHOEFER: It's 95-710-01-REN.

15 THE COURT REPORTER: Okay, thank you very
16 much. It's been a pleasure working with you. And that's
17 all the questions I have.

18 CHAIRMAN BECHHOEFER: Okay. Well, I
19 appreciate all your participation this morning, and I will
20 try to issue next week sometime a brief summary of what we
21 talked about, but it won't have much more than definitive
22 dates and that type of thing.

23 So, I guess with that, we will leave. And
24 have a nice day, everybody.

25 MR. TURK: Thank you.

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1 MR. EVANS: Al Evans, bye.

2 MS. CARROLL: No nukes, ya'll.

3 (Whereupon, the pre-hearing telephone
4 conference was concluded at 11:55 a.m.)

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C E R T I F I C A T E

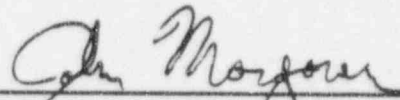
This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: GA INSTITUTE OF TECHNOLOGY
PREHEARING CONFERENCE/LICENSE RENEWAL

Docket Number: 50-160-REN, ASLBP NO. 95-710-01-REN

Place of Proceeding: TELEPHONE CONFERENCE CALL

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.



JOHN MONGOVEN
Official Reporter
Neal R. Gross and Co., Inc.

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