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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

'96 APR 30 P4:38

Before Administrative Judges:

Charles Bechhoefer, Chairman  
Dr. Jerry R. Kline  
Dr. Peter S. Lam

OFFICE OF SECRETARY  
DOCKETING & SERVICE

! SERVED MAY - 1 1996

In the Matter of  
  
GEORGIA INSTITUTE OF  
TECHNOLOGY,  
Atlanta, Georgia  
  
Georgia Tech Research Reactor  
  
(Renewal of Facility License  
No. R-97)

Docket No. 50-160-Ren

ASLBP No. 95-704-01-Ren

April 30, 1996

THIRD PREHEARING CONFERENCE ORDER

On April 24, 1996, the Atomic Safety and Licensing Board conducted a prehearing conference in Atlanta, Georgia (Tr. 834-914).<sup>1</sup> Participating were representatives of Georgia Institute of Technology (Georgia Tech or Applicant), Georgians Against Nuclear Energy (GANE or Intervenor) and the NRC Staff. This conference served many of the purposes described in 10 C.F.R. § 2.752. Following are the specific matters considered:

A. Witness Schedules. The Board approved schedules for the appearance of particular witnesses at the hearing commencing on May 20, 1996. Previously, the Board had

<sup>1</sup>Notice of this conference, dated March 25, 1996, was published in the Federal Register of March 29, 1996, 61 Fed. Reg. 14164.

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directed the parties to present the names of all of their witnesses at the prehearing conference. All of them did so.<sup>2</sup> Because much of Georgia Tech's case is likely to be rebuttal testimony, Georgia Tech was given the authority to identify additional rebuttal witnesses following the testimony of GANE's witnesses. (Georgia Tech in fact identified not only its direct witnesses but also certain potential rebuttal witnesses.) The schedules for particular witnesses are as follows:

1. Georgia Tech:

- a. Dr. R. A. Karam ) May 29, 1996,
- b. Dr. Nicholas Tsoulfanidis) 9:30 a.m.
- c. Dr. Rodney Ice )

Rebuttal--above witnesses plus:

- d. Dr. B. K. Revsin ) May 31, 1996,
- e. Dr. P. Michael O'Bannon ) 9:00 a.m.
- f. Dr. Burnd Kahn ) (June 24, 9:30  
a.m., if  
necessary)

2. GANE:

- a. R. M. Boyd May 23, 1996, 9:00 a.m.
- b. Glenn Carroll May 21, 1996, 9:30 a.m.
- c. Dr. Brian Copcutt May 20, 1996, 1:00 p.m.  
(May 21, 9:00 a.m, if  
necessary)
- d. John Galloway May 21, 1996, 1:00 p.m.
- e. A. R. Long May 24, 1996, 9:00 a.m.

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<sup>2</sup>The Applicant and Staff filed witness lists. GANE announced its witnesses during the prehearing conference (Tr. 847-49).

3. NRC Staff:

- a. Panel A: May 22, 1996, 9:00 a.m.  
Douglas M. Collins  
Paul E. Fredrickson  
Albert F. Gibson  
George B. Kuzo
  
- b. Panel B: May 30, 1996, 9:00 a.m.  
Craig H. Bassett  
Edward J. McAlpine  
Marvin M. Mendonca
  
- c. Panel C: May 30, 1996, following  
Alexander Adams, Jr. Panel B  
Marvin M. Mendonca

B. Subpoenas. As requested, the Board issued subpoenas for two GANE witnesses: Mr. Boyd and Dr. Copcutt. GANE also sought a subpoena for Staff Inspector A. R. Long. GANE's response to Staff and Georgia Tech discovery, dated February 22, 1996, at 18-19. The Rules of Practice do not permit particular Staff witnesses to be subpoenaed. 10 C.F.R. § 2.720(h)(1). GANE had earlier identified and has now listed as one of its witnesses Ms. Long. Ms. Long was not included in the three panels of witnesses proposed to be presented by the Staff.

Notwithstanding the Board's lack of authority to subpoena particular Staff witnesses, the Board, pursuant to 10 C.F.R. § 2.720(h)(2), may, upon a showing of "exceptional circumstances, such as a case in which a particular named NRC employee has direct, personal knowledge of a material fact not known to the witnesses made available by the [Staff] require the attendance and testimony of named NRC

personnel" (emphasis supplied). GANE has identified Inspector Long as having taken positions at odds with other NRC personnel with respect to the conduct of Georgia Tech management. GANE has stated in its response to NRC discovery, dated February 22, 1996 (at 18), that Ms. Long brought a sex-discrimination suit against NRC "for chilling her investigation of the Georgia Tech Research Reactor, complaining of a good old boy network that was covering up Georgia Tech's mistakes."

GANE attached two newspaper articles (attachment #6 of discovery response) describing in more detail Ms. Long's views. GANE has also filed a motion to compel, dated March 8, 1996, seeking Staff documents regarding Inspector Long, and the Board in large part granted that motion.

The Staff took the position that one of its witnesses (Albert F. Gibson) was well aware of the events about which Ms. Long would testify (Tr. 856) and that the Staff's selection of witnesses was adequate. The Board views this situation as comprising the exceptional circumstances referenced by the NRC rule, and it regards differing views of the adequacy of Georgia Tech's management as facts differing from those likely to be presented by the referenced NRC witness.

According to GANE, Ms. Long "still has some questions about oversight of Georgia Tech [by NRC]." Discovery Response, dated February 22, 1996, at 2. Ms. Long's view of

the facts thus can reasonably be expected to differ significantly from views likely to be presented by the inspectors on NRC's witness panels. As set forth in one of the newspaper articles attached to GANE's February 22, 1996 discovery response (Attachment 6, Atlanta Journal-Constitution article), Ms. Long's disagreement with other NRC employees concerned an alleged "breakdown in management controls" at Georgia Tech--the very issue raised by GANE in this proceeding. Accordingly, the Board hereby requires the attendance and testimony of Ms. A. R. Long, on the schedule set forth above.

C. Local Public Document Room. The Board has long urged the establishment of a Local Public Document Room in the Atlanta, Georgia, area. See, e.g., LBP-95-6, 41 NRC 281, 297-98 (April 26, 1995). Effective April 25, 1996, such a room was established, at the Decatur Library, 215 Sycamore Street, Decatur, Georgia 30030 (telephone (404) 370-3070). Hours of operation are 9:00 a.m. to 9:00 p.m. Monday through Thursday, 9:00 a.m. to 5:00 p.m. Friday and Saturday, and 1:00 p.m. to 5:00 p.m. Sunday. Paper copies of files relevant to this proceeding (from 1985 to date) are present at that location. (If any of the parties have questions concerning the Local Public Document Room, they may call NRC at 1-800-638-8081.)

D. Limited Appearance Sessions. The Licensing Board previously announced that it would hold at least two oral

limited appearance sessions--a one-hour session on the opening day of the hearing, from approximately 10:00 a.m. to 11:00 a.m. on Monday, May 20, 1996, and a two-hour evening session, tentatively set for 7:00-9:00 on Wednesday, May 22, 1996. At the conference, the Board confirmed that the evening session would be held on Wednesday, May 22, 1996, from 7:00-9:00 p.m., at the Student Center Theatre, Georgia Institute of Technology, Atlanta, Georgia. The Board also announced that, if there appeared to be sufficient interest or demand, it would hold a further session on Wednesday evening, May 29, 1996, from 7:00-9:00 p.m., at a location to be announced.

E. Marking of Exhibits. Exhibits are to be marked, at the time they are first identified for the record, in numerical sequence for each party sponsoring them--e.g., GT [Georgia Tech] Exh. 1, GANE Exh. 1, Staff Exh. 1. Each party should bring eight copies of each exhibit: three for the court reporter and one for each (other) party and Licensing Board member. Parties are encouraged to distribute copies of all exhibits to other parties at the outset of the initial evidentiary hearing session. The Board also encouraged the parties to stipulate to the authenticity and admission of as many exhibits as possible, as well as to past facts, where agreed upon. Such steps could save much hearing time. (Only the Staff, in its list of witnesses, also identified documents it would be

presenting in its direct case. The Board had not previously directed the parties to identify documents of this type.)

\* \* \*

IT IS SO ORDERED.

For the Atomic Safety and  
Licensing Board

Charles Bechhoefer  
Charles Bechhoefer, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
April 30, 1996

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

GEORGIA INSTITUTE OF TECHNOLOGY  
ATLANTA, GEORGIA

Docket No.(s) 50-160-REN

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB 3D PREH CONF ORDER LBP-96-8 have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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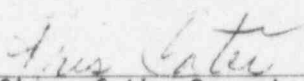


Docket No.(s)50-160-REN  
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Dated at Rockville, Md. this  
1 day of May 1996

  
Office of the Secretary of the Commission