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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE COMMISSION

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Docket No. 50-160-Ren

In the Matter of

ASLBP No. 95-704-01-Ren

GEORGIA INSTITUTE OF TECHNOLOGY  
RESEARCH REACTOR  
Atlanta, Georgia  
Facility License No. R-97

GEORGIANS AGAINST NUCLEAR ENERGY  
RESPONSE TO NRC STAFF AND GEORGIA TECH APPEALS ON THE  
ATOMIC SAFETY AND LICENSING BOARD'S  
PREHEARING CONFERENCE ORDER OF APRIL 26, 1995

Georgians Against Nuclear Energy (GANE) respectfully submits these comments for the Commission's consideration in weighing the safety issues brought before it concerning the Georgia Tech Research Reactor in downtown Atlanta, Georgia.

Concerning the standing we have been granted to intervene in the licensing proceeding of the Georgia Tech Reactor: Mr. Robert Johnson was a member of GANE prior to our initial filing of petition to intervene as supported by the record. He had participated in GANE activities, meetings and voting responsibilities prior to our initial filing. As stated in GANE's by-laws, "Membership is open to anyone who accepts the stated goals of GANE." Membership records are a service we perform for our members, not a requirement for membership.

GANE takes this opportunity to clarify the statement made by Glenn Carroll at the pre-hearing conference as noted on page 7 of Georgia Tech's appeal, "Nah, we don't think you have to really be a member." As a pro se intervenor, GANE had asked a friend for some legal guidance at the outset. GANE has intervened before in a license proceeding concerning Plant Vogtle and posed several questions to see if the model we had experienced would fit an intervention for a non-power reactor. In the course of the conversation, GANE was assured, first, that we would have the right to amend our petition as long as

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our initial filing was timely. We were confidently assured that showing an affidavit from a person that we were representing would be an allowable amendment. GANE felt that in such a high-population area, with a disproportionately youthful population, we would find a lot of support for our intervention through circulating blank affidavits. Some of the volunteers circulating the affidavits were moved by great concern about the reactor, but were intimidated at asking friends and neighbors meet a requirement to join GANE in order to be able to show their safety concerns before the NRC and the Safety & Licensing Board. The lawyer, said it would definitely be better to have a member but it might not be a rigid criterion. So, we drew up a generic affidavit to circulate, erroneously believing that the NRC would be impressed by the sheer number of citizens who live in close proximity to the Georgia Tech Reactor and that they willing to sign a legal document attesting to their concern that the reactor at Georgia Tech is a personal danger.

As it happens, Mr. Johnson was one of the members of GANE who was not only earnest about giving his contacts an opportunity to sign affidavits, but urged everyone to fill out membership forms in addition. GANE failed to support Mr. Johnson's keen instincts with proper affidavits containing the wording, "I am a member in good standing." If you review the record you will see that Glenn Carroll was relating this same story to the pre-hearing conference, and the "Nah, we don't think you have to be a member" comment is not to Mr. Johnson's personal membership, but to the perceived necessity of the scope of his effort to support GANE's intervention by getting commitments of membership from others.

We reiterate the Atomic Safety and Licensing Board's citation of the Appeal Board in the South Texas case (ALAB-549). That board concluded "it is neither Congressional nor Commission policy to exclude parties because the niceties of pleading were imperfectly observed. Sounder practice is to decide issues on their merits, not to avoid them on technicalities."

Georgia Tech argues that GANE has not shown injury in fact to Mr. Robert Johnson as his place of work lies outside a 100-meter danger zone around the reactor. GANE points out the discussion about radioactive gas emissions from the stack. The testimony that under no circumstances will the Argon-41 emissions exceed legal limits aside, Georgia Tech Reactor Director Dr. Ratib Karam stated in the record (TR. at 22-23) that under an incredible accident scenario, some noble gases may be released. GANE emphasizes that one of our contentions

admitted by the Atomic Safety & Licensing Board deals directly with the increased likelihood of an incredible accident scenario, i.e., the increased security threat posed by the presence of the Georgia Tech Reactor in the center of the Olympic Village which will house 20,000 athletes at the 1996 Summer Olympic Games to be held in Atlanta in July 1996. Not only is the Olympic Village directly threatened by the Georgia Tech Reactor's proximity, but so is Atlanta, an international city of over 2,000,000 residents, which will be host to the world for the Olympic Games. We cite the terrorism at the Olympic Village in Munich as well as UCLA's decision to shut their reactor prior to Los Angeles' hosting the Olympics in 1984. Mr. Robert Boyd, former Radiation Safety Officer at the Georgia Tech Reactor has expressed his concern to the Commission as well. The 1996 Olympics provides a context for the kind of "incredible scenario" that could attend the release of amounts of radiation beyond "permissible levels." Given the extreme power we have witnessed of home-made bombs recently (the World Trade Center and Oklahoma City incidents come to mind), GANE believes that an incident of terrorism or sabotage at the Georgia Tech Reactor has great potential to bring injury in fact to Mr. Robert Johnson. The Safety and Licensing Board has recognized this threat as put forth in their order dated April 26, 1995.

Georgia Tech has appealed the Safety and Licensing Board's admission of GANE's contention 5 concerning security for the Georgia Tech Reactor during the Olympic Games, citing a Title 10 CFR 50.13. This rule was passed in 1967 during the height of the Cold War and the Cuban Missile Crisis and reassured nuclear power plant licensees by limiting their responsibilities to protect facilities against certain types of security threats across the board. This responsibility was given to intelligence and other federal agencies.

GANE observes that the rule 10 CFR 73.60 (f) does not contradict CFR 50.13, but rather, is the exception to this broad rule.

The rule reads as follows:

§73.60(f) In addition to the fixed-site requirements set forth in this section and in §73.67 the Commission may require, depending on the individual facility and site conditions, any alternate or additional measures deemed necessary to protect against radiological sabotage at nonpower reactors licensed to operate at or above a power level of 2 megawatts thermal.

10 CFR 73.60 (f) clearly provides for the broad discretion of the Safety and Licensing Board to require additional measures to ensure

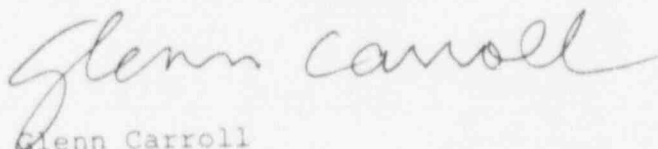
security on a case-by-case basis. This law was written in 1993, and it is to be assumed that the law was written in full light of knowledge of 10 CFR 50.13 and in answer to a need for additional security from radiological mayhem in a changing world. Clearly the Olympics is the sort of special case where site conditions and security risks change.

The argument Georgia Tech makes that the issue of special security measures to protect Atlanta and the Olympics from sabotage at the Georgia Tech Reactor during the Olympics has already been heard and decided by the Commission in their response (or lack thereof) to Mr. Robert Boyd's letter of December 3, 1993, misinterprets the context of Mr. Boyd's comments. Mr. Boyd's comments were offered during the public comment period of an NRC security-related rulemaking, and were not dealt with in any depth as they were specific, tangential comments about a non-power reactor submitted in a broad rulemaking for nuclear power plants.

Finally, one comment concerning Contention 9, that management problems at the Georgia Tech Reactor are so great that safety for the public cannot be assured. The NRC staff remarks that the contention is not admissible because the serious episode cited by GANE in 1987-88, eight years ago, is ancient. GANE has the right, as has any litigant, to raise an issue prior to knowing everything there is to know. GANE is entitled, as is any litigant, to discover the truth through due process. The record contained in NRC Investigation Report No. 2-88-003, is shocking and provides a sufficient basis to explore an issue that has never been publicly adjudicated. This is noted by the Atomic Safety and Licensing Board in their order of April 26, 1995.

GANE trusts that you will preserve its earned place as party to this important proceeding. GANE urges you to perceive the urgency of this matter, as we must begin soon to secure the site. We beg you to help, not hinder, a safe resolution to this matter by at least allowing our intervention to proceed.

Respectfully submitted,



Glenn Carroll

Representative for GANE

Dated and signed May 26, 1995  
in Decatur, Georgia

CERTIFICATE OF SERVICE - Docket No.(s) 50-160-REN

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