

RAS 1715

**OFFICIAL TRANSCRIPT OF PROCEEDINGS**

**UNITED STATES OF AMERICA**

**NUCLEAR REGULATORY COMMISSION**

DUPLICATE

00 MAY 11 P3:03

AD

**Title: PRIVATE FUEL STORAGE, LLC --  
CONFERENCE CALL**

**Case No.: 72-22-ISFSI**

**ASLBP No.: 97-732-02-ISFSI**

**Work Order No.: NRC-1276**

**LOCATION: Rockville, MD**

**DATE: Monday, May 8, 2000**

**PAGES: 1307 - 1378**

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Template = SECY-037

SECY-02

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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In the Matter of: :

PRIVATE FUEL STORAGE, L.L.C. : Docket No. 72-22-ISFSI

(Independent Spent Fuel : ASLBP No. 97-732-02-ISFSI

Storage Installation) :

- - - - - x

U.S. Nuclear Regulatory Commission

Two White Flint

Room 3-B-51

Rockville, Maryland

Monday, May 8, 2000

The above-entitled matter came on for telephone  
conference, pursuant to notice at 11:00 a.m.

BEFORE:

THE HONORABLE G. PAUL BOLLWERK, III

Administrative Judge

Atomic Safety & Licensing Board Panel

DR. JERRY R. KLINE

Atomic Safety & Licensing Board Panel

DR. PETER S. LAM

Atomic Safety & Licensing Board Panel

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1 APPEARANCES: [Continued]

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

[11:00 a.m.]

JUDGE BOLLWERK: Why don't we go ahead and go on the record? We're here today to conduct a pre-hearing conference, telephone pre-hearing conference in the Private Fuel Storage proceeding.

This is Administrative Judge Paul Bollwerk. I'm Chairman of the Licensing Board. With me today are Judge Kline and Judge Lam.

We are doing this conference by telephone, so I would appreciate, as we go around and have everybody identify themselves, and, also, as you're speaking, if you could remember to, please, give your name before you start talking. It will make things easier for the court reporter.

Why don't we go around and have everybody enter an appearance? Why don't we start with the Applicant, please?

MR. SILBERG: This is Jay Silberg, from Shaw, Pittman. With me is Paul Gaukler, from Shaw, Pittman. And on the line from our Breckinridge office is Ernie Blake.

JUDGE BOLLWERK: All right. For the Intervenor, please? Intervenors.

MS. CHANCELLOR: Also, Judge Bollwerk, this is Denise Chancellor in Utah.

JUDGE BOLLWERK: All right.

MS. CHANCELLOR: With me in my office I have

1 Connie Nakahara and Gene Braxton, and Diane Curran has a  
2 cold, so she won't be joining us today.

3 JUDGE BOLLWERK: All right. As I think we  
4 indicated previously to you all before we went on the  
5 record, it's my understanding Mr. Kennedy will not be  
6 participating, but he's authorized you to represent his  
7 interest, Ms. Chancellor, is that correct?

8 MS. CHANCELLOR: Yes, Your Honor.

9 JUDGE BOLLWERK: All right. And we tried to  
10 contact Joel Walker, who represents several of the  
11 Intervenors, and we're unable to do so. I guess there is a  
12 message on her machine saying she'll be back in about a  
13 week.

14 So at this point, she actually has environmental  
15 consents that are involved, nothing directly implicated in  
16 this evidentiary hearing and there is a transcript being  
17 kept, if there's anything she needs to talk to us about, let  
18 her know she can do so.

19 We are also in the process of trying to contact  
20 Mr. Quintana and he may be joining us at some point,  
21 assuming he wishes to participate in the telephone  
22 conference today.

23 All right. Before I go down my list of items, is  
24 there anything that any of the parties want to bring to the  
25 Board's attention as a preliminary matter?

1 MR. TURK: You might want to introduce the staff.

2 JUDGE BOLLWERK: Mr. Turk, I'm sorry. I  
3 apologize. I knew I forgot someone.

4 MR. TURK: Your Honor, we're here. Sherwin Turk,  
5 Catherine Marco, Mark Delligatti, and also Robert Weisman,  
6 who is participating in the case with us at this time.

7 JUDGE BOLLWERK: All right. Again, Mr. Turk, I  
8 apologize. I got my list of names here and you're not  
9 checked. So I should have been asking.

10 MR. TURK: Actually, that's a good sign, Your  
11 Honor. It means you don't need to hear from me the rest of  
12 the conference call probably.

13 JUDGE BOLLWERK: All right. At this point,  
14 preliminarily, is there anything anybody wants to bring to  
15 the Board's attention? We issued an order and asked for  
16 agenda items and there hasn't been any, so I'm going to  
17 assume that the items I've sort of outlined are the ones  
18 that people want to discuss, some I wish to discuss with the  
19 parties.

20 Does anybody else have anything, however, they  
21 want to add at this point?

22 MR. SILBERG: Jay Silberg, for PFS. What we might  
23 want to discuss the scheduling of the limited appearance  
24 statements, the timing of those statements.

25 JUDGE BOLLWERK: All right. I have that as one of

1 the items. Let's go through my list then and we'll bring  
2 that up.

3 In terms of just -- in terms of the items, what  
4 can go wrong will go wrong. Let me just advise you that we  
5 were told, I guess, Thursday or Friday of last week that as  
6 of the first of June, the Hilton is going to become the  
7 Sheraton Salt Lake and the Doubletree will become the Hilton  
8 Salt Lake.

9 That really doesn't affect anything that we're  
10 doing, other than the name of the hotel has changed. So we  
11 may need to issue additional notices, but in terms of our  
12 rooms and where we're at, it doesn't change. It's just that  
13 we now have the Hilton becoming a Sheraton.

14 I don't know, Ms. Chancellor, you might have been  
15 aware of that. I don't know if there's been any publicity  
16 in Salt Lake about it, but that's what we were told, in any  
17 event.

18 MS. CHANCELLOR: No. It's news to me, Your Honor.

19 JUDGE BOLLWERK: As I say, we still have the same  
20 room in the same building, it's just now going to be a  
21 Sheraton rather than a Hilton. So I'll pass that along to  
22 you for your edification and whatever. I don't think  
23 there's anything anybody has to do.

24 As I said, again, we have some notices we probably  
25 need to re-issue or to clarify.



1           Let me then move into, I guess, the main thrust of  
2 what I want to talk about today, and we're doing this about  
3 a week before the pre-filed testimony is due with respect to  
4 the various issues.

5           I just wanted to get some sense of where the  
6 parties were at in terms of their witnesses, their exhibits,  
7 and the number of days they think we're going to need to try  
8 these issues, as well as, I guess, as we indicated in the  
9 order, some sense of what order you want to try them in.

10          Let me start, I guess, with the order of the  
11 issues and I'd ask, I guess, that someone provide some  
12 information on that jointly. I will open the floor at this  
13 point to that.

14          MR. SILBERG: The parties have had some  
15 discussions and I think we all agree that the order ought to  
16 be starting with Utah R, next would be Utah H, and, finally,  
17 Utah E and F.

18          JUDGE BOLLWERK: All right. And how long do you  
19 think, at this point, that R is going to take?

20          MR. SILBERG: We believe, and I think the state --  
21 well, I can give you the numbers. We believe it would be  
22 about a day. The state's estimate is a day to a day and a  
23 half, and the staff's estimate is a day and a half.

24          MS. CHANCELLOR: I don't believe it would be more  
25 than a day.

1 JUDGE BOLLWERK: And that's a day cumulative,  
2 everybody, as opposed to one day for each party, right?  
3 I've always understood that's what we were talking about. I  
4 just want to make sure that's clear what we're talking  
5 about.

6 MR. SILBERG: That's correct.

7 JUDGE BOLLWERK: So we're talking a day, maybe a  
8 day and a half, at the outside, but it sounds like a day is  
9 probably what we need for R.

10 MR. SILBERG: Right. I also assume that the first  
11 contention, the first couple days of the hearing, in my  
12 experience, always takes a lot longer, until the people get  
13 their sea legs.

14 JUDGE BOLLWERK: All right.

15 MR. SILBERG: But I included that in my estimate.

16 JUDGE BOLLWERK: All right. Since we've dealt  
17 with that one first, how many witnesses do the parties  
18 anticipate? For instance, how many will the Applicant have  
19 on, probably?

20 MR. SILBERG: The Applicant will have two.

21 JUDGE BOLLWERK: And how about the staff?

22 MR. TURK: We have two, also, Your Honor.

23 JUDGE BOLLWERK: And what about the Intervenors,  
24 basically the State of Utah?

25 MS. CHANCELLOR: We will probably have just one,

1 Your Honor.

2 JUDGE BOLLWERK: All right.

3 MR. TURK: But we will put ours on as a panel,  
4 Your Honor, for the staff.

5 JUDGE BOLLWERK: Okay. Will the Applicant be  
6 doing the same?

7 MR. SILBERG: That's correct.

8 JUDGE BOLLWERK: Do you have a sense, starting  
9 with the Applicant, about how many exhibits you're going to  
10 have for this panel?

11 MR. SILBERG: We don't anticipate any.

12 JUDGE BOLLWERK: None?

13 MR. SILBERG: We may have some attachments to the  
14 testimony, which typically we call exhibits, but I think we  
15 label as attachments, but right now, I don't anticipate any  
16 freestanding exhibits.

17 JUDGE BOLLWERK: All right. We'll have to see  
18 what they look like and see if they need to be admitted as  
19 exhibits or whatever. We'll deal with that when I see them,  
20 I guess.

21 MR. SILBERG: And it would be something like their  
22 curriculum vitae.

23 JUDGE BOLLWERK: Okay. What about the staff,  
24 number of exhibits?

25 MR. TURK: We have one exhibit that relates not so

1 much to this contention as much as much as it does to the  
2 staff's review in general. Under 10 CFR 2.743(g), we're  
3 required to put any SER into evidence. So we will expect to  
4 offer the SER as re-issued on January, I believe, 4th of the  
5 year 2000 as an exhibit to the record, and we may want to do  
6 that -- we'll probably do that before we introduce our first  
7 witnesses.

8 JUDGE BOLLWERK: All right. And what about the  
9 State of Utah?

10 MS. CHANCELLOR: Your Honor, I'm a little confused  
11 as to the way in which we introduce exhibits. Can you do  
12 that through direct testimony? Do you have to lay a  
13 foundation in the testimony or do you just simply attach it  
14 and then you argue in the in limine motions whether you have  
15 laid a foundation?

16 I'm just not familiar with pre-filing written  
17 direct testimony.

18 JUDGE BOLLWERK: Well, in theory, once everyone  
19 has seen everyone's exhibits, and you can reach  
20 stipulations, so there's not going to be any objections,  
21 many of these simply come in -- actually, the way I prefer  
22 to do them is when we admit the testimony of the witness, we  
23 generally look to the exhibits that that witness supports  
24 and, at that point, identify them and mark them for  
25 identification and we then can either admit them or we can

1 wait until after we're done with that particular witness and  
2 admit them at that point.

3 MS. CHANCELLOR: So if we have attachments to our  
4 testimony, do we mark that as Exhibit 1?

5 JUDGE BOLLWERK: I think that probably is going to  
6 be the better practice. If you have, for instance, a  
7 curriculum vitae, just mark it as Exhibit 1, and we'll do it  
8 that way.

9 MS. CHANCELLOR: And would that be Exhibit 1 for,  
10 say, Contention R, which would be first, and then would they  
11 be sequential after that or would it be R Exhibit 1, H  
12 Exhibit 1?

13 JUDGE BOLLWERK: I think it would be better to use  
14 do those sequentially, without any kind of a suffix on them.

15 In other words, your exhibits would run  
16 sequentially throughout the entire case. So if you start  
17 with the first one being one, then the next one would be  
18 two, without any kind of suffix or prefix on it.

19 MS. CHANCELLOR: And do you have any preference  
20 where the exhibit number is placed on the document?

21 JUDGE BOLLWERK: Not really. I think one of the  
22 things that will happen is the court reporter, when they  
23 actually get a copy of the exhibits and you bring your  
24 original and two copies, I believe it is, with you, the  
25 court reporter will actually take and generally bend over

1 the first page and stamp them at that point and put the  
2 number on it.

3 MS. CHANCELLOR: Okay.

4 MR. SILBERG: Judge Bollwerk, in a lot of the  
5 hearings that we have done in the past, what we typically  
6 would do is once the witness is sworn in, you would actually  
7 give him both his curriculum vitae and subsequently his  
8 written testimony and you would ask him to authenticate it  
9 and then have both of those bound into the transcript at  
10 that point, as if read.

11 An exhibit generally is not bound into the  
12 transcript and for something as short as the curriculum  
13 vitae, would it make sense to do it that way as opposed to  
14 treating it as an exhibit which is not part of the  
15 transcript? In which case, they wouldn't technically need  
16 to be exhibits.

17 JUDGE BOLLWERK: Right. Well, anything that's  
18 bounded -- well, we can even bind exhibits into the  
19 transcript, though I'm not in favor of that.

20 Is there a reason that the parties see to have the  
21 curriculum vitae attached to the actual pre-filed testimony?

22 MR. SILBERG: It just makes it simpler, I thought.

23 MR. TURK: I also like it, Your Honor, because the  
24 testimony really is -- if it's the testimony of an expert  
25 witness, the strength of that testimony is very closely

1 related to the qualifications of the witness.

2 So rather than have to look to an external  
3 exhibit, I'd rather have that in the transcript itself.  
4 That's also been my experience with how it's been done in  
5 the past. We could live with it either way, but it seems to  
6 go hand-in-hand with the testimony itself.

7 JUDGE BOLLWERK: Ms. Chancellor, do you want to  
8 say anything on that point?

9 MS. CHANCELLOR: No. I have no preference, Your  
10 Honor.

11 JUDGE BOLLWERK: All right. Well, let's do it  
12 this way, then. To be consistent across the board, for the  
13 curriculum vitae, let's consider those attachments to the  
14 pre-filed testimony. Everything thereafter we will consider  
15 as an exhibit.

16 But it does need to be attached to the pre-filed  
17 testimony and we will have it bound into the record, along  
18 with the testimony. Is that clear to everyone?

19 MR. SILBERG: Yes, Your Honor.

20 MR. TURK: And then, also, I believe the state has  
21 suggested, or maybe I misunderstood, but I thought the state  
22 had suggested that the exhibits be attached to testimony. I  
23 would rather see those come off and whenever a party wants  
24 to introduce the exhibit, then there would be a motion or a  
25 request for it to be introduced and admitted and then we

1 would be able to examine the witness on it to make sure that  
2 it's well supported.

3 But that would be a separate exhibit, rather than  
4 something that's attached to testimony.

5 JUDGE BOLLWERK: Correct. I think what we just  
6 basically said was that anything other than curriculum vitae  
7 should be considered separate exhibits.

8 It's been my experience, in the past, that  
9 generally, especially since these are pre-filed, the parties  
10 have had some opportunity to look at them, have some  
11 knowledge of them. Some of them may, in fact, be disputed;  
12 others will not be, although a motion in limine can take  
13 care of much of that.

14 But to the degree, again, that once we've gotten  
15 the witnesses' testimony in, then we need to go through, I  
16 guess, and move to have the exhibits at least identified for  
17 the record and then we can talk about any objections to  
18 them.

19 MS. CHANCELLOR: Your Honor, so even though the  
20 exhibits are separate from the testimony, we still pre-file  
21 the exhibits with the testimony, proposed exhibits with the  
22 testimony. Is that correct?

23 JUDGE BOLLWERK: That's correct.

24 MS. CHANCELLOR: Okay.

25 JUDGE BOLLWERK: Anything the Applicant or staff



1 want to say about that?

2 MR. SILBERG: No, sir.

3 MR. TURK: Not for the staff, Your Honor.

4 JUDGE BOLLWERK: All right. And, again, since  
5 everybody is going to be pre-filing these, obviously I think  
6 there are -- you can all take a look at them and if you need  
7 to discuss them among yourselves and get some sense of where  
8 everyone is at, subject to any motions in limine you want to  
9 file, and if there are any motions, then, obviously, we  
10 would anticipate the exhibit is not going to be objected to,  
11 although we can see how that goes.

12 But the main objections generally come in terms of  
13 the hearing to cross examination exhibits, which the parties  
14 are not required to pre-identify, obviously.

15 All right. Anything else on that?

16 All right. One thing, I guess. Ms. Chancellor,  
17 you have one witness on Utah R. Do you have a sense of how  
18 many exhibits you're going to have?

19 MS. CHANCELLOR: Only a couple, Your Honor.

20 JUDGE BOLLWERK: All right. So two or three, I'm  
21 hearing.

22 MS. CHANCELLOR: As long as I'm not held to that  
23 number.

24 JUDGE BOLLWERK: I'm not going to hold that. I'm  
25 just trying to get a sense of how many -- how much paper are

1 we talking about here?

2 MS. CHANCELLOR: Not very much.

3 JUDGE BOLLWERK: All right. Let's move then to H.  
4 What about the Applicant, how long do you think it's going  
5 to take to try H?

6 MR. BLAKE: I think a day to a day and a half or  
7 two days. The reason that I'm a little vague on it is  
8 because we're still having what I expect will be productive  
9 discussions with the Intervenor, and the staff is included,  
10 on precisely what concerns remain for the state on this  
11 contention, and I think we're going to wind up with a very  
12 well defined couple of issues to address in testimony.

13 And if that's the case, then it will be a little  
14 shorter than if we don't make hay, but we'll be able to let  
15 you know that later this week, I think, Your Honor.

16 JUDGE BOLLWERK: All right. So we're talking  
17 about two days, at the outside.

18 MR. BLAKE: Yes, and I think that's true in any  
19 event.

20 JUDGE BOLLWERK: All right. How many witnesses  
21 for the Applicant?

22 MR. BLAKE: Two.

23 JUDGE BOLLWERK: And how many exhibits,  
24 approximately?

25 MR. BLAKE: Well, again, it depends on how we come

1 out in our discussions. I think probably just one report  
2 for supporting, along with the curriculum vitae, for the  
3 witnesses.

4 JUDGE BOLLWERK: All right. In terms of the  
5 staff, do you have anything you want to say on Mr. Blake's  
6 estimate on the hearing time?

7 MR. TURK: I think it's accurate. There is a wide  
8 range here, because we just are not sure what the issues  
9 are. I had mentioned to Denise Chancellor this morning, in  
10 an earlier call, that I wouldn't get into this issue very  
11 much because Diane Curran has been taking the lead on it for  
12 the state, and she's not available for the call.

13 But I do have to say, just for the record, that  
14 the staff's position that we filed last December had  
15 identified Contention H or had identified our understanding  
16 of Contention H as primarily challenging the short-term  
17 temperature limits for the cask, and that's what our  
18 statement of position addressed.

19 During deposition testimony, it's my understanding  
20 that the state now says that's not the concern. Now that  
21 concern has been resolved and now it's the long-term limits  
22 that are of concern.

23 So we really need to hone in on what exactly is  
24 the precise issue and make sure the parties agree to it.  
25 And then in the one week remaining for filing testimony,

1 draft testimony, and I have to say, for the record, I really  
2 cut this very short.

3 In terms of the amount of time to present the  
4 issue for hearing, I would estimate approximately a day and  
5 a half.

6 JUDGE BOLLWERK: All right. And how many exhibits  
7 does the staff -- or how many witnesses does the staff  
8 anticipate?

9 MR. TURK: We will put on one witness, Your Honor.

10 JUDGE BOLLWERK: All right. And how many  
11 exhibits?

12 MR. TURK: I cannot say yet whether there will be  
13 an exhibit or not. As the Board may recall, this past  
14 Friday, I sent out a letter to the Board and parties  
15 indicating that the high storm cask has received a  
16 certificate of compliance, and the transfer cask has  
17 effectively been withdrawn from the PFS application.

18 Although it hasn't been withdrawn, in fact, PFS  
19 has asked us to cease our review of it for this application.  
20 So we are deleting from our environmental documents any  
21 reference to the transfer cask.

22 Our testimony will now focus on the high storm  
23 cask that has been approved through compliance.

24 And in direct answer to your question, I'm not  
25 sure yet whether we'll be putting in the SER for the high

1 storm cask or not. But if we do put in exhibits, that will  
2 be the only one.

3 JUDGE BOLLWERK: All right. Ms. Chancellor,  
4 anything you want to say about the question of the number of  
5 days of trial time or hearing time?

6 MS. CHANCELLOR: Yes. I have had conversations  
7 with Diane Curran, and a day to a day and a half sounds like  
8 it will be reasonable. A lot depends on just the issue may  
9 be narrowed, but it's very technical. So it depends on how  
10 much explanation needs to be gone through.

11 We will have two witnesses and I'm not sure about  
12 exhibits. If we do have exhibits, they wouldn't be  
13 voluminous.

14 JUDGE BOLLWERK: All right.

15 MS. CHANCELLOR: Your Honor, could I ask a  
16 question about when you have more than one witness? Is it  
17 the witness, is it the person whose witness is there, is it  
18 that party that has the -- who decides whether they will be  
19 as a panel or not or can other parties request that  
20 witnesses be as a panel?

21 JUDGE BOLLWERK: The general practice is for the  
22 parties themselves to designate how they want to use their  
23 witnesses, as individual witnesses or as a panel. If  
24 someone has a preference, I suspect you can certainly  
25 provide that to whoever's party is sponsoring the witnesses

1 and see what they're willing to do. If you think it's going  
2 to be more efficient one way or the other, they may be  
3 willing to listen to that.

4 But it's generally up to the party itself, unless  
5 there is some motion to the Board -- I haven't seen one of  
6 those in a while -- to ask that a certain group of witnesses  
7 be impaneled together.

8 MS. CHANCELLOR: Okay. It's just not usual for us  
9 to have paneled witnesses.

10 JUDGE BOLLWERK: You mentioned two in this one.  
11 Are you trying to decide whether you're going to use them as  
12 a panel or as individuals?

13 MS. CHANCELLOR: This would be as a panel.

14 JUDGE BOLLWERK: Any other questions or comments  
15 about Utah H?

16 MS. CHANCELLOR: Are PFS' two witnesses as a panel  
17 or separate?

18 JUDGE BOLLWERK: Mr. Blake?

19 MR. BLAKE: Panel.

20 JUDGE BOLLWERK: All right. Let's move on then to  
21 Contentions E and F. What would you like to say about that  
22 in terms of the number of hearing days?

23 MR. SILBERG: My guesstimate is three.

24 JUDGE BOLLWERK: All right. What about the number  
25 of witnesses for the Applicant?

1 MR. SILBERG: We will have five.

2 JUDGE BOLLWERK: All right.

3 MR. SILBERG: They will probably not be as a  
4 single panel, however.

5 JUDGE BOLLWERK: You anticipate five individuals,  
6 two panels. Have you decided yet on how you're going to  
7 break them up?

8 MR. SILBERG: Two of them will clearly be as a  
9 panel and we really haven't decided as to the other three.

10 JUDGE BOLLWERK: What about exhibits?

11 MR. SILBERG: I can think of at least one.

12 JUDGE BOLLWERK: I'm not hearing about a lot of  
13 paper here, which I guess is a good thing. Okay.

14 MR. BLAKE: There might be one or two, but they're  
15 not voluminous.

16 JUDGE BOLLWERK: I'm not trying to hold anybody to  
17 anything. I'm just trying to get a sense of what we're  
18 talking about here, that's all.

19 MR. BLAKE: I understand. Some of the things that  
20 we might attach are really quite short and I think it would  
21 be much easier if we just append them to the testimony.

22 JUDGE BOLLWERK: All right. Again, my only  
23 concern about appendices to the testimony is it then goes  
24 into the transcript and the transcript gets longer and  
25 longer.

1 MR. BLAKE: But we're talking about a page or two.

2 JUDGE BOLLWERK: We can look at it at the time, I  
3 guess.

4 MR. BLAKE: Right.

5 JUDGE BOLLWERK: The staff, then, in terms of the  
6 number of days of hearing time.

7 MR. TURK: We would estimate about two and a half  
8 to three days.

9 JUDGE BOLLWERK: All right. And then how many  
10 staff witnesses on these issues?

11 MR. TURK: Two, Your Honor.

12 JUDGE BOLLWERK: And how many exhibits,  
13 approximately?

14 MR. TURK: May we have just a minute?

15 JUDGE BOLLWERK: Sure. Are the two a panel or are  
16 they separate?

17 MR. TURK: As a panel, Your Honor.

18 JUDGE BOLLWERK: All right.

19 [Pause.]

20 MR. TURK: We're not sure yet about exhibits.  
21 Possibly one. We're not sure yet whether it we'll use  
22 testimony or file it as a separate paper.

23 JUDGE BOLLWERK: All right. And, Ms. Chancellor,  
24 in terms of E and F?

25 MS. CHANCELLOR: The same witness, one witness for



1 E and F, and two to three days -- two to two and a half days  
2 for hearing.

3 JUDGE BOLLWERK: All right.

4 MS. CHANCELLOR: And in terms of exhibits, this is  
5 one where we may have -- we're trying to decide what to do  
6 with the PFS business plan, which is probably two inches  
7 thick. So I don't know what -- we haven't decided yet  
8 whether we would use the entire business plan, but that -- I  
9 just wanted to alert you that that may be a voluminous  
10 exhibit that we may use.

11 JUDGE BOLLWERK: All right.

12 MR. TURK: Would that be the '98 business plan,  
13 Denise?

14 JUDGE BOLLWERK: Mr. Turk.

15 MR. TURK: Yes. I was asking, is that the '98  
16 business plan you're referring to?

17 MS. CHANCELLOR: Yes, that's correct. But we  
18 haven't decided yet whether we're going to use all of it,  
19 some of it, or none of it. But that is one that could be a  
20 large exhibit.

21 JUDGE BOLLWERK: All right.

22 MS. CHANCELLOR: And it depends on whether PFS is  
23 going to use that.

24 MR. BLAKE: We don't have any problems if the  
25 state wants to introduce relevant portions of that, what

1 they consider to be relevant to their testimony, but I  
2 suspect that a lot of that we would argue is not relevant to  
3 the contention. But we'll have to see what it is that they  
4 want to bring in.

5 JUDGE BOLLWERK: Is most of that business plan  
6 proprietary?

7 MR. BLAKE: It's all proprietary.

8 JUDGE BOLLWERK: All proprietary. All right.

9 MR. BLAKE: And I think we ought to talk about the  
10 proprietary nature of the various contentions, as well, and  
11 we can do that after we go through this.

12 JUDGE BOLLWERK: All right. Anything besides the  
13 business plan at this point, that you know of, Ms.  
14 Chancellor, you'll be introducing, in terms of numbers of  
15 exhibits?

16 MS. CHANCELLOR: I don't know about numbers, but  
17 the other exhibits I don't imagine would be voluminous like  
18 the business plan.

19 JUDGE BOLLWERK: All right. Looking at this  
20 overall, then, it doesn't sound like we're going to have  
21 many exhibits. If I count them up here, we're probably  
22 talking less than two dozen, depending on what some of these  
23 minor ones are I'm hearing about.

24 Does that sound about right to the parties?

25 MR. BLAKE: Yes, sir.

1 MS. CHANCELLOR: Your Honor, I think a lot depends  
2 on how much of the application PFS -- whether it's going to  
3 introduce any of the application and if so, how much.

4 MR. BLAKE: Our answer to that is we are not  
5 intending to introduce the application.

6 JUDGE BOLLWERK: All right. It sounds like then  
7 if there are portions of the application you wish to have in  
8 evidence, Ms. Chancellor, you need to put them in there.

9 MS. CHANCELLOR: It sounds like it, Your Honor.

10 JUDGE BOLLWERK: Again, to the degree you can, it  
11 would be useful to have maybe some discussion just before  
12 you file all of these to try to avoid duplicate numbers or  
13 if there is a way afterward to -- if we see that folks have  
14 got two exhibits in, if one or the other of you decides  
15 whose is going to come first and just give it that number,  
16 rather than continuing to have different numbers for the  
17 same exhibits. I think that's useful, if we can avoid that.

18 Do you want to talk for a second about anything  
19 else in terms of the number of days, witnesses, exhibits,  
20 that we've talked about with respect to these contentions  
21 now?

22 MR. BLAKE: There are some scheduling issues that  
23 we probably want to face with respect to the particular  
24 witnesses and the particular contentions. I don't know if  
25 you want to talk about that now.

1 JUDGE BOLLWERK: Does that relate to the  
2 proprietary information, as well? Can we go through that  
3 all at once or separate?

4 MR. BLAKE: Separate issue, but we can go through  
5 each and talk about that.

6 JUDGE BOLLWERK: Let's talk about witness  
7 scheduling then.

8 MR. BLAKE: On R, our witnesses for R are only  
9 available the early part of the first week. I think that's  
10 true for the staff's witnesses, as well.

11 MS. CHANCELLOR: It's also true for the state  
12 witness. He's unavailable on Wednesday, the 21st, but is  
13 available on the Monday and Tuesday.

14 JUDGE BOLLWERK: So it sounds like we need to get  
15 R done those first two days, Monday and Tuesday. Is that  
16 right?

17 MR. BLAKE: Right.

18 MR. TURK: Yes, Your Honor.

19 JUDGE BOLLWERK: All right. What about anything  
20 dealing with H?

21 MR. BLAKE: In terms of witness availability?

22 JUDGE BOLLWERK: Or E and F. Anything, any other  
23 questions about witness availability?

24 MR. TURK: Yes, Your Honor. The staff has a  
25 problem with E and F. H was fine for following up during

1 that first week.

2 JUDGE BOLLWERK: All right. What about E and F  
3 then?

4 MR. TURK: For E and F, one of our two witnesses  
5 is unavailable until Tuesday of the second week, which means  
6 that if you have the staff going second in order of  
7 presentation on each issue, the Applicant might be able to  
8 do testimony on E or F or both of them during the first  
9 week, but then we'd have to wait for the staff witness to  
10 arrive. He would be able to fly in on Monday afternoon and  
11 we can put him on the stand Tuesday morning.

12 And as I mentioned, they will be as a panel, so it  
13 would affect the presentation of the entire staff testimony.

14 JUDGE BOLLWERK: All right.

15 MR. TURK: I guess if the state goes second on E  
16 and F, then we could finish, I believe, finish the staff's  
17 -- I'm sorry -- finish the Applicant's and state's testimony  
18 during the first week and just come back to the staff the  
19 second week.

20 As I understand, Ms. Chancellor does not want to  
21 do it that way, which is all right with me, too, if the  
22 Board continues with the current order.

23 MS. CHANCELLOR: It's Contention E, Your Honor, E  
24 and F, our preference would be that we bring our witness in  
25 just once, not twice, such that if we have to move to the

1 second week to begin E, that would be our preference, if we  
2 couldn't finish it in the first week.

3 Our witness is in Oregon, and so that she doesn't  
4 have to fly home over the weekend and come back down again.

5 JUDGE BOLLWERK: All right.

6 MR. TURK: Your Honor, I'd like to renew our  
7 request that the staff go third in order of presentation. I  
8 know you've ruled on this once already and your latest order  
9 addressed it, as well. But I think I have to note our  
10 preference would be to go in third position.

11 JUDGE BOLLWERK: Okay. I don't have any problem  
12 with changing the order of witnesses around, if it's  
13 necessary somehow to address scheduling problems. I think  
14 that's something we need to be flexible about, obviously.

15 What I'm hearing is with respect to the first two  
16 issues, we're talking about between two days and three and a  
17 half to four days, is that right?

18 MR. BLAKE: Yes.

19 JUDGE BOLLWERK: And I guess my contemplation had originally  
20 been that we would try to do, especially now that I'm  
21 hearing that E and F are probably three days, to try to do R  
22 and H during that first week and then come back the next  
23 week and pick up E and F.

24 MR. SILBERG: We would prefer to get started on E  
25 and F as soon as we're finished with H, just to keep the

1 process moving. Now, it may be that if we don't finish the  
2 end of the day Thursday, then it might not make sense to  
3 start Friday morning, where you have limited appearance  
4 schedules to start 1:00 on Friday.

5 But if things go the way I hope they will, I'd at  
6 least like to get E and F started and maybe get our  
7 testimony on and off.

8 JUDGE BOLLWERK: All right. Well, again, if your  
9 witnesses are there and we're ready to start E and F, I  
10 don't have a problem with going ahead and doing that, not at  
11 all.

12 MS. CHANCELLOR: Your Honor, our witnesses would  
13 have to be there if PFS is going to put its witnesses on,  
14 and I don't know if you want to discuss it now, but in  
15 response to Mr. Turk's argument that the staff go last, the  
16 state has some objections about that.

17 JUDGE BOLLWERK: Your position is that your  
18 witness needs to be there when the Applicant's witnesses are  
19 testifying.

20 MS. CHANCELLOR: That's correct.

21 JUDGE BOLLWERK: What is your position in terms of  
22 the staff witnesses since their witness isn't available  
23 until Tuesday?

24 MS. CHANCELLOR: Well, in our phone conversation  
25 today, Mr. Turk was unsure whether he'd need his second

1 witness. But if he does need that second witness, who is  
2 unavailable, then I think that because the staff and PFS are  
3 so closely aligned, that it is -- that their position will  
4 be similar given that the staff has already taken a  
5 position, as it has in the SER. It's a proponent of issuing  
6 of the Applicant meeting the requirements of the rule.

7 And so it's likely we'd be sandwiched in the  
8 middle on what PFS didn't pick up at the beginning, the  
9 staff could at the end, and I feel like that's a little  
10 unfair and I think it's also more expedient to both the  
11 staff and PFS together where the issues are joined rather  
12 than separately.

13 For example, on summary disposition, you could  
14 make an analogy to that where the state has the opportunity  
15 to file the final reply, when the staff aligns with the  
16 Applicant.

17 MR. SILBERG: The practice has been, in all the  
18 hearings that I've been in, is that the staff goes last,  
19 because I think they have a right, as the agency responsible  
20 for preparing the analysis, to respond to both the Applicant  
21 and the Intervenors. It may not make any difference because  
22 when it goes last, then the staff is going to have to have  
23 the right to have rebuttal, as well.

24 But it seems to me more sensible for the staff to  
25 go last, then you only have to do that -- they don't have to



1 have rebuttal, because they can deal with it in their first  
2 shot on the stand.

3 But we can do it either way. Historically, the  
4 staff has gone last and I think that probably continues to  
5 be appropriate.

6 JUDGE BOLLWERK: Mr. Silberg, do you want to  
7 address Ms. Chancellor's concern about her witness being  
8 present or at least having the opportunity to hear what the  
9 Applicant's witnesses are going to say?

10 MR. SILBERG: I don't have a problem with that.  
11 That's certainly appropriate, as long as you sign the  
12 appropriate confidentiality restrictions, which he has. I  
13 certainly have no objection to that. And if the state  
14 thinks that that's needed, then I think we need to schedule  
15 accordingly.

16 On the other hand, if it turns out that we have to  
17 come back, I think that's life. Other people are probably  
18 going to have to come back, as well.

19 MS. CHANCELLOR: Is it possible that that witness  
20 would be available on Saturday?

21 JUDGE BOLLWERK: Hold on one second. Did someone  
22 just buzz in?

23 MR. ANTIPOLLO: Yes. My name is Pablo Antipollo.  
24 I'm sitting in for Danny Quintana, until he arrives.

25 JUDGE BOLLWERK: All right.

1 MR. ANTIPOLLO: I'm his office manager here down at  
2 the firm.

3 JUDGE BOLLWERK: All right. And could you spell  
4 your last name for the record, please?

5 MR. ANTIPOLLO: It's A-n-t-i-p-o-l-o.

6 JUDGE BOLLWERK: Okay. Thank you.

7 MR. ANTIPOLLO: You're welcome.

8 JUDGE BOLLWERK: I'm sorry. Ms. Chancellor, could  
9 you repeat that again?

10 MS. CHANCELLOR: I'm sorry, Your Honor. It sort  
11 of went out of my head. We would be prepared to go forward  
12 on Saturday if the staff's witness would be available on  
13 Saturday, if it would help wrap this thing up within the  
14 first week.

15 MR. SILBERG: On Saturday, right now at least, we  
16 have limited appearance scheduled.

17 MS. CHANCELLOR: If requested.

18 MR. TURK: Speaking for the staff, Your Honor, our  
19 witness is not available on the weekend either. He's going  
20 to be attending some sort of a family function which will  
21 require him to be away for that entire end of the first  
22 week, beginning -- through the weekend, into Monday morning.

23 JUDGE BOLLWERK: Basically, what I'm hearing is  
24 the staff witness is not available until Tuesday of the  
25 second week.

1 MR. TURK: Right.

2 JUDGE BOLLWERK: On E and F.

3 MR. TURK: Right. And as far as the state having  
4 its witness available to them to observe the Applicant's  
5 testimony, I think that is appropriate. If I was the state,  
6 I would want my expert witness to be there assisting me, as  
7 well.

8 JUDGE BOLLWERK: Okay. Let's let the Board think  
9 about this. We've got some scheduling to deal with here. I  
10 don't want to obviously be bringing witnesses several times  
11 in and out. That's not an efficient use. On the other  
12 hand, we need to move this thing forward, as well.

13 I take it, then, in terms of -- if we were to go  
14 the second week and just start E and F that second week, I  
15 think it's the Applicant's testimony we're talking about  
16 basically Monday.

17 MR. TURK: That depends, of course, on how much  
18 cross examination our panel gets.

19 JUDGE BOLLWERK: And with the idea that the staff  
20 witness could be on Tuesday. If we needed to fill in,  
21 perhaps we could move to a state witness.

22 MS. CHANCELLOR: Perhaps, Your Honor. Our witness  
23 will be there.

24 JUDGE BOLLWERK: All right.

25 MR. TURK: But it sounds like we'd be done that

1 second week, sometime either end of Tuesday or end of  
2 Wednesday.

3 JUDGE BOLLWERK: That's correct. All right. In  
4 terms of the proprietary, let's deal with that for a second.  
5 I think I have a good understanding now of what the  
6 scheduling issues are. Let the Board talk about it among  
7 ourselves.

8 In terms of the proprietary nature of the  
9 information, you wanted to say something about that in terms  
10 of E and F, Mr. Silberg.

11 MR. SILBERG: We would anticipate that that's  
12 largely going to be all proprietary, because it will involve  
13 detailed cost information which PFS considers to be  
14 proprietary.

15 JUDGE BOLLWERK: All right. So that's two and a  
16 half to three days of hearing that's basically going to be  
17 closed.

18 MR. SILBERG: Right. And I think H, I don't know  
19 if we dealt with H, but as I understand it, H is also likely  
20 to involve only proprietary information.

21 JUDGE BOLLWERK: So H would be closed, as well.

22 MR. SILBERG: Yes.

23 JUDGE BOLLWERK: All right. I think in terms of  
24 both of these contentions, the proprietary nature -- let me  
25 see. Does either the staff or the State of Utah want to say

1 anything in that regard?

2 MS. CHANCELLOR: No, Your Honor. We'll abide by  
3 whatever PFS considers to be proprietary.

4 JUDGE BOLLWERK: All right. Mr. Turk?

5 MR. TURK: Nothing more on that, Your Honor.

6 JUDGE BOLLWERK: All right. With respect to both  
7 H, and also E and F, I think what we're going to be  
8 requesting from the parties, and if you can file this when  
9 you file your pre-filed testimony, that would be good, or we  
10 can change the date, depending on any needs the parties  
11 might have, is a list of everyone that you would anticipate  
12 is going to be in the hearing room at the time we're doing  
13 the proprietary information and dealing with it.

14 That would include your witnesses, any technical  
15 advisors that you have there, any attorneys, paralegals,  
16 whatever. Basically, we need a list of the people who have  
17 the proper clearances, whatever they are, who have signed  
18 the proper protective order and have whatever need to know  
19 to be in the hearing room at the time.

20 So that we can use those lists, provide them to  
21 the security that we're going to have there, and make sure  
22 that we don't have people moving in and out that shouldn't  
23 and people in the hearing room that shouldn't be there.

24 Is that a problem for any of the parties?

25 MR. SILBERG: I think we should be able to do it,

1 reserving the right to amend that list as we get closer to  
2 the hearing. There may be representatives from individual  
3 PFS companies who we don't know now are coming who may  
4 decide that they want to observe all the portions of it.

5 JUDGE BOLLWERK: All right. Is that something  
6 that can be filed with the pre-filed testimony or do we need  
7 to move it back a little bit?

8 MR. SILBERG: I think we can put together a list  
9 now. The more latitude we have to make amendments to it, I  
10 think the more comfortable I'd feel filing it now, but we  
11 can certainly give you a list now of people we know will be  
12 there.

13 JUDGE BOLLWERK: All right. Is that something the  
14 staff could provide?

15 MR. TURK: Yes, Your Honor. I'm wondering, do you  
16 need that from the staff?

17 JUDGE BOLLWERK: Yes. The problem -- the answer  
18 to that is yes, not because I understand the staff hasn't  
19 got the proper clearance, but simply because we want to have  
20 a sense of who should and shouldn't be in the hearing room.  
21 And if we have a list there that the security officer can  
22 check as people come and go, that's going to give me more a  
23 sense that the proper individuals are there.

24 MR. TURK: We can do that. The reason I was  
25 hesitating is I know who our witnesses will be, I know the

1 project manager will be with us, I know who the lawyers will  
2 be, but there may be a few people from NRC management from  
3 the project office who may decide to stop in to observe a  
4 day or two of the hearing, and I don't know what their  
5 schedule is yet.

6 MR. SILBERG: One way to do that --

7 MR. TURK: I will make an inclusive list that will  
8 have their names on it, whether they appear or not is  
9 something we could simply address later on.

10 MR. SILBERG: Judge Bollwerk, one way to handle  
11 that problem would just be to say anybody who shows proper  
12 NRC identification.

13 JUDGE BOLLWERK: That's all right, too, I don't  
14 have a problem with doing that, but let's make sure we have  
15 a list, as well, just so I've got a sense of who we have.

16 MR. TURK: We'll do that, Your Honor.

17 JUDGE BOLLWERK: Ms. Chancellor, anything in terms  
18 of a list?

19 MS. CHANCELLOR: We could put a list together,  
20 Your Honor. What I'm in a bit of a quandary about is I  
21 can't remember, for example, if Dr. Neilsen is on the list  
22 of people that we have as having access to proprietary  
23 information. If we wanted to include somebody who was not  
24 on the confidentiality agreement -- no, it's okay.

25 I think with PFS, we don't have a name list of

1 people with the Holtech. I'm mumbling a little bit. We  
2 have two different proprietary agreements with PFS, one  
3 deals with Holtech and there we have actually named  
4 individuals, and then in the PFS case, it's just generic on  
5 a need to know.

6 So the answer to your question is yes, I will be  
7 able to provide you with a list. Like Mr. Silberg, provided  
8 that we can amend it in case need arises.

9 JUDGE BOLLWERK: Again, I don't have a problem  
10 with amending it. We'd like to keep it up-to-date,  
11 obviously. One thing the parties, when these lists come in,  
12 should look at the lists and make sure that they don't have  
13 any problem with anybody that's on the list.

14 One of the reasons I'm doing this is so that you  
15 all can review the requirements of any proprietary  
16 agreements you have and make sure that the folks who have  
17 been identified appear to you to be appropriate.

18 MR. SILBERG: It's okay, as long as Diane isn't on  
19 the list. Just kidding.

20 MS. CHANCELLOR: Which Diane?

21 JUDGE BOLLWERK: All right. Anything else about  
22 proprietary information then? So we should then anticipate  
23 with H and E and F will be proprietary. Basically, we're  
24 talking about the last portion of the proceeding. Only  
25 about the first two days are going to be open. The rest of



1 it then is going to be proprietary.

2 MR. SILBERG: Correct.

3 JUDGE BOLLWERK: And there's no parts of H, for  
4 instance, that we could try without a closed hearing.  
5 Everything needs to be proprietary.

6 MR. SILBERG: Ernie?

7 MR. BLAKE: I guess we could try. If it works out  
8 that way, Your Honor, and we're able to file two pieces of  
9 testimony, so that a portion of it could be tried publicly,  
10 we can look to doing that and talk with the state and the  
11 staff about doing that.

12 JUDGE BOLLWERK: I would prefer, we're talking  
13 about almost -- what are we talking -- three, five, seven or  
14 eight days of -- seven days, let's say, of hearing, of which  
15 four or five of them are going to be closed.

16 I understand the need to do that, we'll do it if  
17 we have to. On the other hand, if there is anything that we  
18 can -- any portions of that we can -- and that would include  
19 E and F, as well -- any portions of it we can make public,  
20 that you obviously don't have a preference, but if it needs  
21 to be closed, so be it.

22 MR. SILBERG: The difficulty with E and F is we  
23 have only treated the details of the cost breakdowns as  
24 being proprietary.

25 JUDGE BOLLWERK: Right.

1 MR. SILBERG: The overall number is a number which  
2 is in the application and the RAIs, but the details are not,  
3 and the testimony is going to deal with the details.

4 JUDGE BOLLWERK: All right.

5 MS. CHANCELLOR: Your Honor, I have a question  
6 about E and F. We talk about E and F in the same breadth.  
7 Will we actually be trying E and F together, such that PFS  
8 would put on its E and F witnesses and then the state would  
9 cross examine those witnesses on both E and F, or do we do E  
10 separately and then do F?

11 JUDGE BOLLWERK: Let me ask Mr. Silberg if he has  
12 any preference.

13 MR. SILBERG: I think the preference would be to  
14 do those separately.

15 JUDGE BOLLWERK: First E, and then F.

16 MR. SILBERG: Yes.

17 JUDGE BOLLWERK: And the information that you gave  
18 me about the five witnesses, two in a panel and then others,  
19 does that affect in terms of which one is E and which one is  
20 F?

21 MR. SILBERG: F would be two witnesses.

22 JUDGE BOLLWERK: Is that your panel or two  
23 separate ones?

24 MR. SILBERG: Probably be panel. Not sure.

25 JUDGE BOLLWERK: All right. And recognizing this

1 is not a science, but can you give me any kind of a  
2 breakdown between how long we're talking about trying E  
3 versus how long you're talking about trying F?

4 MR. SILBERG: It seems to me that E is much longer  
5 than F. I think F is a couple hours.

6 JUDGE BOLLWERK: We'll say half a day total.

7 MR. SILBERG: Yes.

8 JUDGE BOLLWERK: And E then would be, given the  
9 estimate you gave me, potentially two to two and a half  
10 days.

11 MR. SILBERG: Right.

12 MR. TURK: Speaking for the staff, Your Honor, I  
13 don't know how we can put on three different cases in a half  
14 a day on F. I would stretch that out probably to a day.

15 JUDGE BOLLWERK: All right.

16 MR. SILBERG: I just think the nature of the  
17 questions are quite limited and I would hope that the amount  
18 of cross examination would be similarly limited.

19 JUDGE BOLLWERK: Okay. Let me ask the staff about  
20 the panel of two witnesses that you mentioned. Will they be  
21 testifying as to both E and F?

22 MR. TURK: Yes.

23 JUDGE BOLLWERK: I take it, Mr. Silberg, you're  
24 planning on filing separate sets of pre-filed testimony for  
25 E and F?

1 MR. SILBERG: Yes.

2 JUDGE BOLLWERK: Is that what the staff is  
3 planning on doing?

4 MR. TURK: That's how we've structured it so far,  
5 but there's no reason why we couldn't combine the two into a  
6 single document and go along with the combined presentation,  
7 if the Board prefers it that way.

8 JUDGE BOLLWERK: I'm hearing that everybody, at  
9 least Mr. Silberg, I'll ask Ms. Chancellor next, prefers to  
10 try the issues separately, and I think we would go along  
11 with that.

12 Do you want to say anything about this, Ms.  
13 Chancellor?

14 MS. CHANCELLOR: I think it will get too messy if  
15 we try to try them both together and I agree with Mr.  
16 Silberg that the issues are very limited, especially if we  
17 do E first, because many of the issues will overlap onto F,  
18 and I think half a day should be sufficient, and we'll have  
19 the same witnesses we have for E for F.

20 JUDGE BOLLWERK: All right. Then we should plan  
21 then on doing E and F separately, E first, and then F. I  
22 take it that's the preferred order.

23 MR. SILBERG: Yes.

24 MS. CHANCELLOR: Yes.

25 JUDGE BOLLWERK: All right.

1 MR. SILBERG: And it may well be, after the  
2 briefing on F, that may change and may be less or none.

3 JUDGE BOLLWERK: Okay. Mr. Silberg wants to get  
4 this down to about two hours on a Tuesday, I think.

5 MR. SILBERG: As the parties know, this hearing  
6 overlaps with my 25th anniversary.

7 JUDGE BOLLWERK: Oh, dear. All right.

8 MS. CHANCELLOR: But I thought you were going home  
9 in the middle of the week.

10 MR. SILBERG: My wife says that's not enough.

11 JUDGE BOLLWERK: In terms of H, Mr. Blake, you are  
12 going to look at any parts of that that could be put on the  
13 public record.

14 MR. BLAKE: I will. Of course, some of that  
15 depends upon how we do on this issue resolution and  
16 agreement over the next couple of days.

17 JUDGE BOLLWERK: I appreciate that. Anything that  
18 any of the parties want to say about the general subject  
19 we've been talking about here, which is the four contentions  
20 and the timing in terms of the hearing days, the witnesses,  
21 the exhibits?

22 MS. CHANCELLOR: Your Honor, I have a question  
23 from your order. You mentioned something about a rule on  
24 witnesses. I didn't know what that term meant.

25 JUDGE BOLLWERK: I think we've actually discussed

1 that, which is the question of is there any reason to  
2 exclude the individuals who will be testifying for one party  
3 from the testimony of another party, and it sounds to me  
4 like I haven't heard any objection to that at all.

5 MS. CHANCELLOR: Okay.

6 JUDGE BOLLWERK: That generally comes up, I'd say,  
7 more in, for instance, civil penalty or where questions of  
8 credibility --

9 MS. CHANCELLOR: More like enforcement  
10 proceedings.

11 JUDGE BOLLWERK: Correct, exactly.

12 MR. BLAKE: I think when we're dealing, as we are  
13 in this case, with expert witnesses, that that would not  
14 normally be the case. We certainly wouldn't insist on that  
15 kind of an approach.

16 JUDGE BOLLWERK: And that had been my  
17 anticipation, but I wanted to raise it and make sure. I  
18 hate to come up with that problem at the last minute. So  
19 that's why I raised it and I don't see anybody saying they  
20 want any kind of a rule on witnesses.

21 MS. CHANCELLOR: And then another thing, in your  
22 order, Judge Bollwerk, on page 4, you want a list of all  
23 direct case witnesses and exhibits. Are direct case  
24 witnesses, could I assume that's synonymous with whoever  
25 pre-files testimony? Do you mean anything different from

1 that?

2 JUDGE BOLLWERK: No.

3 MS. CHANCELLOR: Okay.

4 JUDGE BOLLWERK: All right. Anything else then in  
5 terms of exhibits, hearing days, witnesses or presentations?

6 MR. TURK: A related issue with respect to limited  
7 appearances, if we're going to come to that next.

8 JUDGE BOLLWERK: That's not the next thing I have,  
9 but --

10 MR. TURK: That's all right. That can wait.

11 JUDGE BOLLWERK: Let me just ask -- let me move  
12 these other two issues and that's actually, I guess, the  
13 fifth thing on my list, which we're now on number two.

14 In terms of stipulations, any questions from the  
15 parties about stipulations, in terms of what -- do you  
16 anticipate any stipulations or basically you're going to  
17 have your pre-filed testimony?

18 MR. SILBERG: Well, the Board had suggested we  
19 look through summary disposition motions and see if we could  
20 stipulate to fact. I certainly don't think that that's  
21 going to be feasible prior to the filing of testimony, and I  
22 suspect it may not be feasible at all, but we will certainly  
23 look at that after we see all the testimony.

24 But if the parties agree on things, I'm not sure  
25 that a stipulation does much more than will occur in the

1 natural order of things.

2 JUDGE BOLLWERK: All right. What about  
3 stipulations as to the expertise of witnesses? To some  
4 degree, you're talking about lack of objection, I guess. It  
5 depends on how you want to look at it.

6 MR. SILBERG: I don't know whether that would be  
7 the subject of in limine motions, if there were to be such.  
8 We may well, in some cases, want to establish scope of  
9 expertise and the like.

10 JUDGE BOLLWERK: All right. I guess the question  
11 I was raising, if there's not going to be those sorts of  
12 objections, is there a way simply to stipulate to it or  
13 indicate to the Board there's not going to be an objection?  
14 That may smooth things along, I don't know. I just was  
15 raising the question.

16 MR. SILBERG: Well, I'm sure we will look at that  
17 when we see the other parties' testimonies and I'm sure they  
18 will do likewise.

19 JUDGE BOLLWERK: All right. In terms of cross  
20 examination plans -- I'm sorry. Anything else on  
21 stipulations? I heard from Mr. Silberg. Anything you want  
22 to say, Mr. Turk?

23 MR. TURK: No, Your Honor.

24 JUDGE BOLLWERK: Ms. Chancellor?

25 MS. CHANCELLOR: One thing, Your Honor. In terms



1 of procedural motions, will there be any argument at the  
2 opening of the hearing with respect to procedural motions or  
3 is that all taken care of on paper prior to the hearing?

4 JUDGE BOLLWERK: I would think -- put it this way.  
5 We will look at the in limine motions, for instance. If  
6 we're in a position to rule on them, based on the papers, we  
7 may well try to do that. If we feel we need to have some  
8 other information from the parties, we may well hold oral  
9 argument.

10 So I guess I'm sort of leaving my options open on  
11 that.

12 MS. CHANCELLOR: And just in terms of timing of  
13 the hearing, would the oral argument on a procedural motion  
14 precede the presentation of a particular contention or would  
15 all the procedural motions be argued at the beginning of the  
16 hearing?

17 JUDGE BOLLWERK: I guess the answer to that is I'm  
18 going to need to see what gets filed.

19 MS. CHANCELLOR: Okay.

20 JUDGE BOLLWERK: It might be more efficient to  
21 deal with them all up front, but I guess I need to see  
22 what's filed. I don't know. I guess I can't anticipate at  
23 this point.

24 MS. CHANCELLOR: Okay.

25 JUDGE BOLLWERK: Certainly with respect to, for

1 instance, Contention R, if there were any in limine motions  
2 filed with respect to R, we would certainly hear those  
3 before we began to admit -- to provide for the admission of  
4 the pre-filed testimony.

5 MS. CHANCELLOR: Okay.

6 JUDGE BOLLWERK: Anything else on stipulations?  
7 Cross examination plans. I bring this up only to see if  
8 there's any questions from anyone.

9 MR. SILBERG: The only question I have with  
10 respect to order is whether the disclosure of the plans at  
11 the end of the initial decisions is something that's  
12 required or whether that was just something in the Board's  
13 discretion.

14 JUDGE BOLLWERK: I believe it's in the rule.  
15 Let's see. Is that your recollection, Mr. Turk? I think  
16 it's in the rule.

17 MR. TURK: I don't recall if it's in the rule or  
18 not. I believe it is, but I'm not sure. But I think  
19 without this being made public or at least as part of the  
20 record of the proceeding, it could be conceived to be an ex  
21 parte communication. So whether it's in the rule or not, I  
22 think it really needs to be disclosed to the other parties.

23 I can look at the rule, Your Honor.

24 JUDGE BOLLWERK: I'm looking for that right now.  
25 My recollection is it is in the rule for exactly that

1 reason. I suppose if anything were put on the record at  
2 that point and someone had a huge objection to a cross  
3 examination plan, they could raise it then.

4 MR. SILBERG: Paul Gaukler says it is in the rule.

5 MR. TURK: Maybe it doesn't have to be made part  
6 of the record, as long as it's distributed to the parties at  
7 the close of the hearing.

8 JUDGE BOLLWERK: In any event, it does follow the  
9 initial decision. Anything else about cross examination  
10 plans from anyone? Again, the more detail you put in, the  
11 more useful they are to the Board, but I'll leave that up to  
12 the parties, to some degree.

13 Sometimes we get very detailed ones. Other ones  
14 are somewhat more terse. To some degree, I will leave that  
15 up to you as to how to -- what we see this time, we may give  
16 you some more direction in terms of the next set of  
17 hearings, but I will leave it up to you at this point to see  
18 how you want to structure those.

19 I guess I've reached the limited appearance part  
20 of the discussion. Who wants to be first? Mr. Silberg?

21 MR. SILBERG: The only question I was going to  
22 raise is whether we really wanted to have a second weekend  
23 set aside. I guess I have no idea the volume of limited  
24 appearance statements, but the thought might be to have  
25 Fridays in Salt Lake City the first week, Saturday in

1 Tooelle, and I hate to have a lot of people come back to  
2 Utah if we finish the hearing on Wednesday the second week  
3 and then people have to hang around until Friday and  
4 Saturday.

5 Maybe the Board has already scheduled that, but it  
6 might turn out to be unnecessary.

7 JUDGE BOLLWERK: The Federal Register notice is  
8 out there, but I can -- I'm willing to listen to what  
9 everyone wants to say. What about you, Mr. Turk?

10 MR. TURK: I personally feel that the amount of  
11 time that's allocated for limited appearances is far too  
12 great, especially in light of the fact that we have had  
13 sessions for the public to attend in the past, the staff has  
14 held sessions, the Board has held sessions.

15 We will be issuing the draft environmental impact  
16 statement in June and in July, there will be another set of  
17 public meetings on the DEIS.

18 I really don't see why we would need two weekends  
19 for limited appearances in connection with the hearing. Now  
20 that we see that the hearing schedule itself will probably  
21 involve only the first three days of each of the two weeks,  
22 I think it would be a little bit onerous and costly for us  
23 to have to keep people in Salt Lake for two weekends for  
24 that purpose.

25 So my preference would be, if the Board is

1 willing, to reschedule limited appearances for only one of  
2 those two weekends and perhaps issue a revised Federal  
3 Register notice in connection with that.

4 JUDGE BOLLWERK: All right. Ms. Chancellor,  
5 anything you want to say on the subject?

6 MS. CHANCELLOR: I would encourage the Board not  
7 to change the limited appearances in Salt Lake City. When  
8 the Board was out here was in January of '98 and then the  
9 other main hearing that we had was in September of '98, when  
10 the staff held the scoping meeting.

11 And to the extent that the dates are already out  
12 there, I guess it would depend on what sort of response you  
13 have had, but in particular, I think we should stick to the  
14 times and dates for those.

15 JUDGE BOLLWERK: All right.

16 MS. CHANCELLOR: And probably should for Tooele,  
17 too, since that's already published.

18 JUDGE BOLLWERK: When we did that, the  
19 anticipation was that the Saturday sessions, I have to say,  
20 would not be necessary, but I had no sense or way to gauge  
21 what the interest is out in the area. Can you say anything  
22 about it, Ms. Chancellor? I don't know.

23 MS. CHANCELLOR: Amongst ourselves, we've been  
24 getting a few phone calls about the hearing, but it's  
25 difficult for us to gauge just what the interest level is.

1 JUDGE BOLLWERK: All right. My anticipation is by  
2 the 31st of May, that's when we've asked folks to give us  
3 some kind of -- anyone who wants to pre-register, name,  
4 address, phone number, whatever information that they're  
5 going to provide, that we should have a pretty good sense of  
6 whether the weekend sessions are going to be necessary.

7 And if we're not getting input, not more than one  
8 or two people, I would anticipate, I suspect we're going to  
9 go ahead and cancel those, in any event. But I want to wait  
10 and see what comes in. I don't know.

11 And in terms of rescheduling them all to the first  
12 week or the first weekend, I guess I'm not disposed to do  
13 that at this point. I think the Board had set these so that  
14 we could deal with both areas sort of individually, to give  
15 each of the parties or the participants, the individuals,  
16 the members of the public in those areas a separate  
17 opportunity to come and address the Board.

18 So I would anticipate, at this point, basically  
19 keeping those there. I should say, with respect to who  
20 attends those from the different parties, my feeling is, and  
21 I think the other Board members would agree with me, we're  
22 very flexible.

23 I don't know that the lead attorneys necessarily  
24 have to be there for those. I don't anticipate that the  
25 lead attorneys or any of the parties or participants are

1 going to have to say anything during those limited  
2 appearance dates.

3 MR. SILBERG: PFS will certainly be represented,  
4 as the Applicant always is at limited appearance dates. We  
5 don't know right now who would be at any given session, but  
6 that shouldn't be your determining factor, because PFS will  
7 be represented.

8 JUDGE BOLLWERK: Actually, when I set these on  
9 Friday, I sort of -- at least with the first one, I  
10 anticipated that perhaps lead counsel could use that time to  
11 do whatever preparation they needed for the next week, if  
12 that were useful to them.

13 I guess one of the messages I'm trying to send is  
14 I don't, for instance, Mr. Silberg, Ms. Chancellor or Mr.  
15 Turk, if you have other things to do, I don't necessarily  
16 expect to see you at those limited appearance statements, if  
17 there is someone else from your -- representing the staff or  
18 if the staff feels they can't -- or any of the other parties  
19 feel they can't have someone there, the Board will  
20 understand that. It's really up to you all.

21 MR. TURK: The staff will have someone there, if  
22 the Board holds them.

23 MS. CHANCELLOR: The state will, too, Your Honor.

24 JUDGE BOLLWERK: All right.

25 MS. CHANCELLOR: We appreciate the flexibility of

1 being able to do other things on Friday.

2 JUDGE BOLLWERK: Right. You all need office time,  
3 just like everybody else. So that had been my anticipation  
4 when we set these.

5 At this point, we will take this into account  
6 again. I think, at a minimum, we're talking about retaining  
7 the two Friday ones. The Saturday ones, as we put in the  
8 notice, we'll have to see.

9 And, frankly, if we don't have, for instance, for  
10 the Friday evening ones, if we don't have much input on  
11 those, we may well cancel those up front, as well.

12 It's really going to depend on the kind of  
13 feedback we get from the people of the area in terms of Salt  
14 Lake and the Tooele area.

15 I know we put a press release and a Federal  
16 Register notice. I hope the word is getting out. We do  
17 want to hear from members of the public that have something  
18 they want to say to the Board. That's the bottom line. And  
19 we want to make ourselves available.

20 MS. CHANCELLOR: Your Honor, is the Federal  
21 Register the only notification that's being given?

22 JUDGE BOLLWERK: My understanding is that the NRC  
23 press office did do a press release and that should have  
24 been sent out to local media.

25 MS. CHANCELLOR: There's been nothing in the



1 newspapers here.

2 JUDGE BOLLWERK: Sometimes they wait closer to the  
3 time. I don't know the answer to that. I can contact our  
4 press office and see if they made any direct contact with  
5 the Salt Lake City papers.

6 It is also on the agency's web site in terms of  
7 the meeting notices that we have. So if anyone went into  
8 the agency's web site, they would see it there, as well.

9 Do you have any suggestions, Ms. Chancellor? Is  
10 there any additional way to get the word out?

11 MS. CHANCELLOR: Probably newspaper advertising,  
12 local radio announcements, there's a couple of university  
13 stations, KCPW, KUER, television stations.

14 JUDGE BOLLWERK: Let me contact the NRC press  
15 office and see exactly what they did in terms of sending the  
16 notice out, the press release.

17 MR. SILBERG: Generally, I have seen small ads  
18 that are placed by the NRC in the local newspapers. At  
19 least I've seen that in some other cases. I don't know  
20 whether that's the universal practice or not.

21 JUDGE BOLLWERK: All right. I can inquire into  
22 that. These days, with budgeting, I'm not sure what our  
23 advertising budget is, so I'll have to check.

24 MR. SILBERG: I know I have seen that press  
25 release that was sent out.

1 MS. CHANCELLOR: On some of the local radio  
2 stations, I'm not sure you even have to pay for a public  
3 service announcement.

4 JUDGE BOLLWERK: All right. Anything else anybody  
5 wants to say about limited appearances at this point? Let  
6 me just -- I guess we've dealt with Utah GG. Should I  
7 anticipate -- I'm trying to think. Is there a motion here  
8 pending. I mean, there's kind of an outstanding question  
9 about whether this needs to be pursued at this point.

10 The staff thinks not.

11 MR. TURK: I guess there is no motion at this  
12 point, Your Honor. As far as I'm aware, it's just the  
13 suggestion in my letter of last week. But since PFS had  
14 indicated they don't want us to look at transfer any further  
15 in connection with their application, at least at this time,  
16 that the contention should be dismissed as moot and without  
17 prejudice. If PFS ever says to the Commission later that  
18 they want transfer to be considered, they should be able to  
19 re-file.

20 There's no reason for any of us to spend any of  
21 our resources on that contention.

22 JUDGE BOLLWERK: Mr. Silberg, I guess one point,  
23 you had been actually -- you told the Board you would get  
24 back to us. What is your position on this at this point in  
25 terms of Utah GG?

1 MR. SILBERG: I don't have any objection to the  
2 suggestion that Sherwin has just made.

3 JUDGE BOLLWERK: Ms. Chancellor?

4 MS. CHANCELLOR: Definitely have an objection,  
5 Your Honor.

6 JUDGE BOLLWERK: You have an objection.

7 MS. CHANCELLOR: Yes, I do.

8 JUDGE BOLLWERK: What is it, just so I know?

9 MS. CHANCELLOR: The objection is that so long as  
10 Trans-store is in the PFS application, GG should remain on  
11 the books. We fight tooth and nail to get a contention  
12 admitted, it seems grossly unfair that the issue is still in  
13 the application, but our contention should be dismissed,  
14 regardless of whether it is dismissed without prejudice or  
15 not.

16 And it's also a little misleading to leave  
17 trans-store in the PFS application if, in fact, PFS is not  
18 going to go forward with the trans-store part.

19 MR. SILBERG: Part of that -- and the reason it  
20 hasn't been taken out is because it's a time-consuming,  
21 administrative task to go through and make sure you're  
22 taking out everything you need to take out and not take out  
23 stuff that you don't want to take out, because it is  
24 inter-woven.

25 That will undoubtedly be done at some point, but

1 given the other obligations that the engineering folks have  
2 on their plate, it's not feasible to do that at the present  
3 time. That's why it's not done.

4 MR. TURK: May I note in that regard that one  
5 reason why the DEIS is being delayed until June, a delay of  
6 one month, is because the staff feels it's appropriate to  
7 delete reference to trans-store and, as Mr. Silberg  
8 mentioned, it's not a simple matter of blocking out the word  
9 trans-store. You have to go back and look at the analyses  
10 and be sure that you're taking out the information that  
11 related to trans-store and doing a good job of leaving  
12 what's still there.

13 But Diane -- I'm sorry. Denise, the DEIS, when it  
14 comes out, will not consider trans-store, nor will the SER,  
15 and the license that is issued, if one is ever issued to  
16 PFS, will not authorize use of trans-store at the site.

17 So even though it's still in the application,  
18 there is no way that that would support licensing.

19 MS. CHANCELLOR: I don't know that, Sherwin, until  
20 I see the final SER. It is time-consuming and a large  
21 workload in our part to review every piece of paper that  
22 comes in to see whether we need to file a new contention,  
23 and I think that the system should work for all sides the  
24 same in this regard.

25 And I don't see any need to dismiss GG as moot

1 until we get closer to the hearing, because Contention L,  
2 the geo-technical contention, is being tried as part of the  
3 environmental contention, and GG can tag along with  
4 Contention L.

5 So I don't see any rush why we need to consider GG  
6 moot at this time. Nothing is going forward at the current  
7 time with the environmental contention and discovery won't  
8 occur on L until September, I believe, August.

9 MR. SILBERG: For PFS, frankly, it doesn't matter  
10 to us if it stays in for now or comes out for now, because  
11 right now trans-store is not going to be part of the  
12 project.

13 JUDGE BOLLWERK: Mr. Turk, let me ask you a  
14 question. When do you anticipate the staff issuing  
15 documentation that's going to -- I'm trying to think of the  
16 word I want -- indicate the staff position that trans-store  
17 is no longer a part of this licensing process?

18 MR. TURK: May I have just a minute, Your Honor?

19 MR. SILBERG: It's coming out in June.

20 JUDGE BOLLWERK: That's what I'm thinking, but  
21 let's see what Mr. Turk has to say.

22 MR. TURK: I'll be with you in one minute, Your  
23 Honor.

24 [Pause.]

25 MR. TURK: Probably the first formal statement --

1 it's in one of two places, Your Honor. I know that when  
2 they issue the SER, which is scheduled for September, that  
3 will reflect the staff's review is based on the Holtech task  
4 alone for trans-store. The draft environmental impact  
5 statement, which is being revised at this time, will likely  
6 say something along that line, as well, and that will come  
7 out in June, but I haven't seen that language yet and I'm  
8 not quite sure how it will be presented.

9 It may well be in the June document, as well.

10 JUDGE BOLLWERK: I take it, Ms. Chancellor, you  
11 would at least like to see the draft EIS then.

12 MS. CHANCELLOR: At least, Your Honor. And in  
13 terms of the SER, will the staff be supplementing the SER?  
14 For example, the weight of position on L, and will they be  
15 supplementing it with respect to the trans-store part,  
16 before the final?

17 MR. TURK: We will not issue another SER or SER  
18 supplement before the final which is coming out in  
19 September. I think administratively, that's too great of a  
20 chore. Plus, you may know from looking at the past SER,  
21 that that one was not task-specific. That was a  
22 site-related SER.

23 The one that comes out in September will be the  
24 final SER that addresses cask issues and that will  
25 essentially supplement what we've issued already.

1 MS. CHANCELLOR: But how does this relate to the  
2 staff's position on Contention L, where we don't have any  
3 backup documentation for the staff's position on L, other  
4 than what was in the original SER?

5 MR. TURK: The staff issued a statement of  
6 position on Contention L in April and there we laid out in  
7 great detail our position with respect to the whether the  
8 Applicant has adequately characterized the site for  
9 geological purposes, which is the subject of that  
10 contention.

11 MS. CHANCELLOR: And that's the only document we  
12 can expect.

13 MR. TURK: No. That's the document that lets you  
14 know what our views are on your contention. Ultimately, the  
15 SER itself will present our view of the situation at the  
16 site up-to-date as of September. I'm expecting that that  
17 will address matters beyond what we said already and I'm  
18 thinking that it will address the exemption request, as  
19 well.

20 MS. CHANCELLOR: I certainly hope so.

21 JUDGE BOLLWERK: All right.

22 MR. TURK: And we may have something else on that  
23 before September, but in September, we would be addressing  
24 the exemption requests, as well.

25 JUDGE BOLLWERK: All right. That got a little far

1     afield, but I think the answer that -- I take it, Ms.  
2     Chancellor, when the DEIS comes out in June, you would take  
3     a look at that then and perhaps you can give us some  
4     indication as to where you stand on GG.

5             MS. CHANCELLOR: You want me to write to you?

6             JUDGE BOLLWERK: I think by that time -- when is  
7     it supposed to issue, Mr. Turk, approximately? Just June?

8             MR. TURK: The DEIS?

9             JUDGE BOLLWERK: Yes.

10            MR. TURK: In June. I don't have a date yet.

11            JUDGE BOLLWERK: All right. That may be something  
12     we can talk about during the course of the hearing. By that  
13     time, we may well be in session there and we may be able to  
14     address that at some point on the record at the hearing,  
15     depending on when the draft EIS comes out.

16            MS. CHANCELLOR: We'll have had time to review it,  
17     certainly, Your Honor.

18            JUDGE BOLLWERK: All right. Anything else on Utah  
19     GG at this point? I think from the Board's perspective,  
20     we're willing to wait for the DEIS to come out and see what  
21     it says and that may -- I'd prefer to resolve this to  
22     everybody's satisfaction, if we can, particularly since  
23     there is no motion pending at this point.

24            I only had one other matter I wanted to mention.  
25     I guess there were some depositions that were conducted last



1 week that we received a joint notice about.

2 MR. SILBERG: Yes.

3 JUDGE BOLLWERK: And those were dealing with E and  
4 F, correct?

5 MR. SILBERG: Correct.

6 JUDGE BOLLWERK: And those have all been finished  
7 now, I take it.

8 MR. SILBERG: Correct.

9 JUDGE BOLLWERK: So we have no other discovery  
10 going on with respect to any of the issues that are  
11 scheduled for hearing in June then.

12 MR. SILBERG: We have requested several weeks ago  
13 that the state update their discovery requests. That  
14 initial request was made some time ago and that update is --  
15 we're still waiting for that.

16 MR. QUINTANA: Your Honor, this is Danny Quintana.

17 JUDGE BOLLWERK: Yes, sir.

18 MR. QUINTANA: I did not attend those depositions  
19 last week and I just want to go on record that I will  
20 reserve all objections on any testimony of the state's  
21 witnesses to the time of hearing. Since those depositions  
22 were already covered by PFS, I didn't feel that there was a  
23 need for me to attend those.

24 So I just want to go on record that at the  
25 hearing, I would reserve the right to make all objections to

1 any testimony based upon relevancy and other evidentiary  
2 considerations.

3 JUDGE BOLLWERK: But be aware that since the  
4 testimony is pre-filed, we are looking for motions in limine  
5 to deal with those types of objections in terms of pre-filed  
6 testimony.

7 MR. QUINTANA: And I can review the transcripts,  
8 as necessary.

9 JUDGE BOLLWERK: All right. Anything you want to  
10 say about that subject, Ms. Chancellor?

11 MS. CHANCELLOR: Mr. Quintana's subject or Mr.  
12 Silberg's?

13 JUDGE BOLLWERK: I will let you address either one  
14 in whichever order you prefer.

15 MS. CHANCELLOR: Okay. First, Mr. Silberg's  
16 statement that they have been waiting for some time for us  
17 to supplement discovery. We supplemented discovery on  
18 Contention E on the schedule that Mr. Gaukler agreed with.  
19 We also did a supplement discovery on Contention R on the  
20 schedule that Gaukler set forth in his letter.

21 Further, I believe that we're waiting for, from  
22 PFS, some documents and other discovery on Contention H.

23 So to the extent that we are still supplementing  
24 discovery, we are well aware of our obligations.

25 With respect to the depositions, yes, they have

1 been concluded. They were proprietary depositions. I don't  
2 know if Mr. Quintana is privy to that information. I'm a  
3 little concerned that Mr. Quintana can just come in and  
4 cross examine our witnesses without any other participation  
5 in this proceeding and I think it would be helpful if we set  
6 some sort of guidelines or limits as to Mr. Quintana's  
7 involvement and how that's going to work.

8 JUDGE BOLLWERK: Well, Mr. Quintana is subject --  
9 let me start with that issue. I believe we made PFS the  
10 lead party for all the contentions and Mr. Quintana then is  
11 within the scope of the contentions, since they are both on  
12 the, quote-unquote, same side on these contentions.

13 PFS, as the lead party, would have the obligation  
14 to speak with him and if there's something else he needed to  
15 raise, as I think we set out in the order, there may be an  
16 opportunity to do that.

17 MR. QUINTANA: Thank you, Your Honor.

18 JUDGE BOLLWERK: Does that clarify it? All right.  
19 In terms of -- the reason, again, I raise this is we've got  
20 a week now till the pre-filed testimony is to be filed and  
21 I'm hoping that all the discovery matters are going to be  
22 taken care of by the time that pre-filed testimony comes  
23 out.

24 MS. CHANCELLOR: We're working as fast as we can,  
25 Your Honor.

1 JUDGE BOLLWERK: That's fine. I just want to make  
2 sure that everybody is aware of that. One other thing I  
3 should mention about the depositions, and I guess, in part,  
4 we didn't make it clear from the order we issued dealing  
5 with these particular contentions, the particular  
6 depositions related to these contentions.

7 I guess we basically said they were deferred. As  
8 a matter of practice, in the future, if anyone is taking  
9 contentions outside a discovery window that's open or some  
10 other discovery period, I'd appreciate it if you let the  
11 Board know that you intend to do that and ask for our  
12 position.

13 We try to leave a lot of latitude within any  
14 particular discovery period for folks to move things around  
15 and sort of set their own schedule, but once discovery is  
16 closed on a particular issue, if we need to have additional  
17 discovery, I'd just like to know. I'm not talking about  
18 supplementation now, but I'm talking about new discovery, to  
19 ask the Board for permission to go ahead and do that.

20 Again, this one here I think was, in part, because  
21 the order that we drafted was not as clear as it should have  
22 been. So that's why I'm not raising anything with respect  
23 to these depositions, they're fine, and I'm glad you got  
24 them accomplished. This is sort of a matter of future  
25 practice.

1 Any questions? Okey-doke.

2 At this point, let me just see if there's anything  
3 any of the parties -- let me just ask. Anything you want to  
4 say about discovery, Mr. Turk?

5 MR. TURK: No, Your Honor.

6 JUDGE BOLLWERK: All right. To this point, I  
7 think this goes through my agenda. Is there anything that  
8 anybody wants to talk about with respect to the proceeding  
9 that's coming up or bring to the Board's attention? Let me  
10 start with the Applicant. Mr. Silberg or Mr. Blake?

11 MR. SILBERG: We have nothing in Washington.

12 MR. BLAKE: No, sir.

13 JUDGE BOLLWERK: Mr. Turk?

14 MR. TURK: Nothing that we haven't already  
15 addressed, Your Honor.

16 JUDGE BOLLWERK: All right. Ms. Chancellor?

17 MS. CHANCELLOR: Just one thing, Your Honor. Will  
18 the court reporter always be the same as what we had for the  
19 pre-hearing conference? If you recall, we had a terrible  
20 transcript the first time around and I don't know if you're  
21 under an obligation, but we've been using a reporter service  
22 out here that has been quite good in terms of getting the  
23 technical terms correct.

24 JUDGE BOLLWERK: I guess the answer to that is I'm  
25 glad to take their name, but we deal with a court reporting

1 service here that then subcontracts generally with folks out  
2 in the field, although they do actually sometimes send  
3 someone from Washington to do the hearing, depending on  
4 what's involved.

5 It's really a question of what this particular  
6 court reporting service you're asking about be a  
7 subcontractor to the one we have the umbrella agreement  
8 with.

9 MS. CHANCELLOR: Do you want their name?

10 JUDGE BOLLWERK: I'm glad to take it, but it  
11 doesn't control what I can do. I can simply pass it along  
12 to our folks and see if that's someone they use.

13 MS. CHANCELLOR: I'm willing to -- I believe PFS  
14 has had the same responses we had to this reporter. They  
15 just recently changed their name. It's CITI Court, and  
16 their phone number, toll-free phone number is 877-532-3441,  
17 and the person that we have been dealing with is Lynnette.

18 JUDGE BOLLWERK: All right. And it's CITI Court.

19 MS. CHANCELLOR: CITI Court, right.

20 JUDGE BOLLWERK: I can pass this along, but that,  
21 to some degree, is up to the court reporting service we use  
22 under our umbrella contract.

23 MS. CHANCELLOR: I understand.

24 JUDGE BOLLWERK: Let me ask one other question.  
25 Do the parties anticipate needing overnight transcripts?

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1 MR. SILBERG: Yes.

2 JUDGE BOLLWERK: Because there is an expense there  
3 and one of the things we're looking at in terms of the  
4 agency is whether we do need overnight transcripts. We've  
5 stopped, in a lot of instances, for many of the proceedings  
6 we do, in terms of pre-hearing conferences and other things.

7 I guess my question is do folks want us to have  
8 these done on an overnight basis.

9 MR. SILBERG: We would prefer that.

10 MS. CHANCELLOR: It would depend on the  
11 contention, Your Honor. If we're just going to try R in one  
12 day, I don't see the need for an overnight transcript.

13 JUDGE BOLLWERK: Anything the staff wants to say  
14 in that regard?

15 MR. TURK: Speaking from my own personal  
16 experience, I've often found it helpful to have overnight  
17 transcripts. I would assume that we would find it useful  
18 here, as well.

19 JUDGE BOLLWERK: We'll take that into account then  
20 and pass that along to the court reporting service.

21 MR. TURK: Is there perhaps some intermediate  
22 step, such as getting an electronic copy overnight?

23 JUDGE BOLLWERK: Well, once they transcribe it,  
24 they transcribe it. Whether they transmit it in paper or  
25 electronically is -- I can ask that question, but basically

1 the main cost of it is the transcription overnight.

2 The other alternative would be two-day  
3 transcripts, which is --

4 MR. SILBERG: That's not going to be very useful.

5 JUDGE BOLLWERK: And the other option after that  
6 is five-day transcripts, which, if two days isn't going to  
7 do the trick, then certainly five days is not going to.

8 All right. At this point, let me ask any of the  
9 Board members, anything you want to ask the parties about?  
10 Anything the parties want to bring to the Board's -- let me  
11 ask this. Mr. Quintana, anything else you want to say, sir?

12 MR. QUINTANA: I think we're in good shape, Your  
13 Honor.

14 JUDGE BOLLWERK: All right. At this point, I  
15 guess we'll be looking forward to seeing the pre-filed  
16 testimony next week and copies of exhibits, I believe, are  
17 due to us as well, to the degree there are any. It doesn't  
18 sound like we're going to have a lot of them.

19 Motions in limine follow after that, with  
20 responses. I will stay in touch in terms of the limited  
21 appearance statements. I would anticipate, if it doesn't  
22 look like on the 31st of May, when we're supposed to get  
23 input from the public, that we have many requests, certainly  
24 for the Saturday session, we will try to cancel those as  
25 promptly as we can, simply so people will have notice.



1 Anything else the parties want to bring to the  
2 Board's attention?

3 MR. SILBERG: No, sir.

4 JUDGE BOLLWERK: If not, then thank you very much  
5 for you time.

6 [Whereupon, at 12:25 p.m., the telephone  
7 conference was concluded.]  
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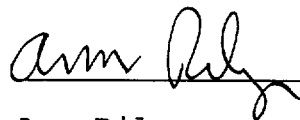
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ASLBP NUMBER: 97-732-02-ISFSI

PLACE OF PROCEEDING: Rockville, MD

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