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NUCLEAR REGULATORY COMMISSION

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[2:00 p.m.]

JUDGE BECHHOEFER: Good afternoon, everybody. I guess we should state our appearances for the record.

MR. HULL: Hello, Your Honor. John Hull for NRC Staff.

MR. STRUK: Randy Struk, Your Honor, for Molycorp.

MR. KAMIN: Sam Kamin for Canton Township.

JUDGE BECHHOEFER: I have been trying to contact Mr. Watson since last Friday and tried several times again yesterday.

MR. STRUK: Judge, this is Randy Struk. If I can ask a question, has the Court received the fully executed stipulation for the dismissal of the temporary storage proceeding?

JUDGE BECHHOEFER: That was my first inquiry, and I understood that that was in the possession, at least, of the City of Washington, Mr. Watson or the City of Washington, and we haven't received anything, and as I say, I haven't been able to reach Mr. Watson, other than leaving messages with his secretary, or answering service, whatever.

MR. KAMIN: You know what, Your Honor? Do you mind if, while I am doing this, if we have a number for him, I would just feel comfortable having somebody in my office just make a call to see if he is around.

1 JUDGE BECHHOEFER: Identify yourself each time you
2 speak because that would be very useful because the reporter
3 is not present in the room with us, so she's on the phone as
4 well.

5 MR. KAMIN: Do you have a number for him, Your
6 Honor, and I'll just have somebody try to call and tell him,
7 if he's there, this conference call is taking place?

8 JUDGE BECHHOEFER: Right. We would have a problem
9 getting one more person on the call.

10 MR. KAMIN: All right. I'll try to connect him
11 from my side, if that's okay.

12 JUDGE BECHHOEFER: All right. Yes, that's okay.
13 We have been calling 1-724-228-6000.

14 MR. KAMIN: Okay. I will have somebody from my
15 office -- I have a lawyer in my office who is calling him as
16 we speak, and we can just maybe continue.

17 JUDGE BECHHOEFER: As I say, all we were able to
18 reach was either his secretary or a recording.

19 MR. STRUK: Judge, this is Randy Struk speaking
20 again.

21 It is my understanding that Mr. Watson -- he
22 affirmatively represented to me that he had no objection to
23 the stipulation that we provided and, of course, Mr. Kamin
24 has executed it on behalf of Canton Township, so it's really
25 a ministerial or housekeeping matter to get it fully signed

1 and before you so that we can have the temporary storage
2 proceeding dismissed.

3 JUDGE BECHHOEFER: We would love that.

4 MR. STRUK: Well, so would I. So what really, I
5 guess, is before us is in what form are we going to go
6 forward on the decommissioning proceeding, and at the
7 outset, there is one thing I did want to advise the Court
8 and Mr. Kamin of because I know it was a question that the
9 Court had in your prior memorandum and order dated April
10 11th of 2000.

11 MR. KAMIN: Excuse me. This is Sam Kamin.

12 Randy, I don't want to be rude and interrupt you a
13 moment, but Mr. Wiley has just called Mr. Watson's office
14 and supposedly he is in court at this particular time. We
15 did -- I did have a call made from my office while the
16 conference call is going on.

17 JUDGE BECHHOEFER: I see. Well, we have never
18 been -- I have never been connected to him at all since --
19 and I've been trying since Friday, so --

20 MR. KAMIN: Okay. At least we tried our due
21 diligence.

22 JUDGE BECHHOEFER: Right.

23 MR. STRUK: Judge, this is Randy Struk.

24 As I was saying, we have been advised -- I know
25 one of the questions the Court had is whether the Part 2 of

1 the decommissioning plan that Molycorp submitted just
2 recently would be published in the Federal Register with an
3 opportunity for hearing, and we have been advised by the NRC
4 that that is their intention. We're trying to get a letter
5 in that regard. I haven't been able to secure one by today,
6 but I know that that was an issue that the Court had in
7 terms of how we were going to go forward based upon the
8 request for hearing.

9 I know you had an issue or a question as to
10 whether the decommissioning or the Part 2 revision which
11 deals with the permanent storage proposal, an on-site
12 permanent cell, would be opened up in that fashion and be
13 published in the Federal Register because, as you commented
14 before in your order, the areas of concern raised by the
15 Township, at least with respect to the decommissioning
16 proceeding, really relate to the permanent storage proposal,
17 and I wanted to let the Court know that it is our
18 understanding that that is going to occur, although the
19 possibility also exists that in advance, even in advance of
20 publication in the Federal Register, there may be some form
21 of public hearing before that.

22 MR. HULL: This is John Hull for the NRC Staff.

23 The Staff does intend to publish a notice of
24 opportunity for hearing regarding Part 2 of the
25 decommissioning plan, but the timing of when that notice

1 will be published remains to be decided.

2 MR. KAMIN: John, can we have a notice or at least
3 personal notice of when you are going to ask for that
4 opportunity for hearing, notice of opportunity for hearing,
5 since I don't think that most lawyers outside of Washington
6 and even some of those in Washington read the Federal
7 Register with any degree of regularity.

8 This is Sam Kamin.

9 MR. HULL: Mr. Kamin -- this is John Hull for the
10 Staff -- Mr. Kamin, you're asking us to give you some sort
11 of advance notice as to when we're going to put the notice
12 in the Federal Register?

13 MR. KAMIN: Certainly.

14 MR. HULL: Okay. That's no problem.

15 MR. KAMIN: Okay. That way, we can -- at least
16 nobody will miss it and we don't have to look at it every
17 day.

18 MR. HULL: Okay.

19 MR. KAMIN: Okay. That's for the Part 2.

20 JUDGE BECHHOEFER: Well, let me tell you that when
21 I interpreted the earlier notice of opportunity, I didn't
22 think that it differentiated between Part 1 or Part 2 or
23 anything; I thought it applied to the decommissioning plan,
24 that there would be one proceeding for everything, and if
25 that was to be the case, then nothing further would have to

1 be filed -- could be filed, but wouldn't have to be.

2 MR. HULL: This is John Hull for the Staff.

3 Judge, if you take a look at the Federal Register
4 notice which initiated this site decommissioning proceeding,
5 Part 1, the cite for it is November 16 of '99, it's Volume
6 64 of the Federal Register and it's on pages --

7 JUDGE BECHHOEFER: I'm reading it. I'm reading
8 it.

9 MR. HULL: Yes. 6227 and 6228. Both Part 1 and
10 Part 2 are described there and, at least in my mind, it's
11 very clear that this narrative only pertained to Part 1 of
12 the site decommissioning plan.

13 JUDGE BECHHOEFER: But where does it say that? I
14 don't -- I didn't see that. See, that's the point.

15 MR. HULL: Well, it definitely made the
16 distinction between Parts 1 and Part 2.

17 JUDGE BECHHOEFER: Yes, but it's all part of a
18 decommissioning plan.

19 MR. KAMIN: I don't know why we have to have a
20 separate notice of opportunity for hearing and I don't know
21 -- it would seem to me that these are a single plan, there
22 are interrelated issues, and I don't know why we need to go
23 through that second exercise.

24 I would think that we ought to get to the quick
25 and determine what are the issues that we have with respect

1 to Part 1 and Part 2 rather than have to go through this
2 exercise and then consolidate the two proceedings.

3 MR. HULL: This is John Hull.

4 As I was saying, Mr. Kamin, it's not a single
5 plan. Parts 1 and Part 2 are quite different plans and
6 you've got different sets of radiological release criteria
7 that apply to each one, and there are a number of technical
8 differences that are large, significant. So you can't just
9 lump the two together.

10 MR. KAMIN: Well, why is it that the Court just
11 can't take a -- Sam Kamin -- why is it that the Court just
12 can't take this whole proceeding at once? I'm sure Judge
13 Bechhoefer is experienced enough to separate in his own mind
14 what is a Part 1 issue and a Part 2 issue, and why do we
15 have to go through these procedural niceties when we can
16 really get to the facts of the case?

17 MR. STRUK: Judge, this is Randy Struk speaking.

18 First off, the issues of concern that were raised
19 in the Township's request for hearing actually pertained to
20 the issues of Part 2, they don't pertain to Part 1.

21 JUDGE BECHHOEFER: Well, I'm not so sure about
22 that. I've reread them, and I'm not sure, having read both
23 -- reread those issues and also read the Staff's SER, I'm
24 not sure that they're that separate.

25 There are several concerns, for instance,

1 concerning groundwater, and those are raised in the Part 1
2 SER, and they seem to overlap some of the concerns expressed
3 by Canton Township in its initial filing.

4 MR. STRUK: Well, Judge, as I read the initial
5 filing, it dealt with issues concerning the temporary
6 storage proposal, which we now know is moot, or the
7 permanent storage cell.

8 This is Randy Struk.

9 So in a way, I do think that they relate to the
10 permanent storage proposal. Moreover, as Mr. Hull
11 indicated, they are not the same proceeding, so it's not
12 just merely a matter of bookkeeping or housekeeping, but
13 they are two totally separate plans.

14 MR. KAMIN: Well, Randy -- this is Sam Kamin again
15 -- if you look at Part 1 and Part 2, there are a number of
16 overlapping issues, including the things which have just
17 come to our attention in the last letter that we got, the
18 August 17th letter from Mr. Hull, including what is the
19 nature of the material that's there.

20 For the first time, we find out that there is
21 radium there in addition to thorium. We are concerned with
22 the radiological status of the matter, the facility, as it
23 relates to the health, safety and welfare. We're concerned
24 with how you're going to handle this Part 1 removal. We're
25 concerned with groundwater issues, we're concerned with

1 surface water issues which overlap. We're concerned with
2 security issues which overlap. We're concerned with the
3 geology and hydrology issues which overlap.

4 There is a surface water issue concerning the
5 creek which is there, and there's a water line issue, plus
6 the fact that there are oil and gas wells which are both
7 part of Part 1 and Part 2 and need to be addressed.

8 So you have all these things which are
9 interrelated. So from that particular standpoint, this is a
10 facility, it is one decommissioning process, and I don't see
11 how you can separate them. The evidence in a Part 1
12 proceeding is going to be very similar to the evidence in a
13 Part 2 proceeding, and just from the standpoint of judicial
14 economy and cost and time of the Court and time of the
15 lawyers, we might as well dispose of them all at once.

16 MR. STRUK: Judge, this is Randy Struk speaking
17 again.

18 Maybe so that you can understand the difference
19 between Part 1 and Part 2, some explanation may be helpful.

20 Part 1 deals with the criteria that will be
21 applied to release portions of the property for unrestricted
22 us. And if you go back and look at the request for hearing
23 that the Township submitted in connection with this Part 1
24 notice, none of the areas of concern deal with the criteria
25 that were proposed or were to be adopted.

1 What Molycorp originally proposed was a clean-up
2 under the old regulations; however, during the pendency of
3 the request, the clean-up criteria changed, and accordingly,
4 Molycorp resubmitted its Part 1 decommissioning plan to meet
5 the new clean-up criteria of 10 picocuries per gram. That's
6 really what Part 1 deals with.

7 And the closing part of Part 1 is that the
8 materials to be remediated would be shipped to an
9 NRC-approved facility, be that either an off-site disposal
10 facility or, as Molycorp is proposing in Part 2, which is
11 really the focus of the request for hearing, an on-site
12 permanent storage facility.

13 So they really are two separate things.

14 MR. KAMIN: Well, first of all -- Sam Kamin again,
15 Randy -- the first problem I have is -- and I kind of feel
16 like I'm hitting a moving target here.

17 For the first time, in the August 17th, 2000
18 letter, we find out that there is radium on the site as
19 opposed to thorium, so I'm dealing with different types of
20 material than initially represented.

21 JUDGE BECHHOEFER: Pardon me. Did you say radium
22 or uranium?

23 MR. KAMIN: Radium.

24 JUDGE BECHHOEFER: Okay. Continue.

25 MR. KAMIN: The second thing is that there are

1 existing oil and gas wells that are there which we think
2 affect both Part 1 and Part 2, so when you start digging
3 down there in an oil and gas field, even though you're
4 removing material, I think that that is a matter here which
5 is a concern which is both a Part 1 and a Part 2 concern.

6 MR. STRUK: Mr. Kamin, I don't mean to interrupt
7 -- this is Randy Struk -- but I'm not sure -- I know you
8 have made a blanket assertion that it's Part 1 and Part 2,
9 but I don't see it that way, and can you explain why you
10 believe that's the case? I think it's a Part 2 issue.

11 MR. KAMIN: Why? Well, you're going to have to
12 dig up the material, which is Part 2, or how are you going
13 to get rid of the Part 1 material?

14 MR. STRUK: No. I think you -- this is Randy
15 Struk again -- you have a misunderstanding. They are not
16 different material, but the difference between Part 1 and
17 Part 2 is what areas of the remediation it deals with.

18 Part 1 deals with what the clean-up criteria are
19 going to be. Part 2 deals with how it is going to be
20 removed and where it's going to go. And that's what your
21 issues are, at least according to the request for hearing
22 that you submitted.

23 So to me, it makes sense that we deal with this as
24 a Part 2. The Court has indicated that there needs to be
25 some additional specification of issues, and it seems to me

1 to make sense that that occur when the NRC submits its -- or
2 publishes Part 2 for opportunity for a hearing.

3 MR. KAMIN: Well, the very first thing, though,
4 Randy -- let's go back.

5 JUDGE BECHHOEFER: Sam, you better tell them who
6 you are.

7 MR. KAMIN: I'm Sam Kamin again.

8 Let's go back and start with the -- one of the
9 problems I've been having with this whole proceeding is the
10 lack of communication with the Township concerning our
11 getting documents and concerning what is being done between
12 the NRC and Molycorp.

13 Now, I will agree with you that there is no
14 discovery under the rules, but in the meantime, we find that
15 there are any number of matters going on between Molycorp
16 and the NRC which we have no knowledge of at this time, and
17 specifically this only came to our attention whenever we got
18 the -- Mr. Hull's letter of August 17th.

19 JUDGE BECHHOEFER: Mr. Kamin, let me break in.
20 This is Judge Bechhoefer.

21 MR. KAMIN: Sure.

22 JUDGE BECHHOEFER: As you recognize, the black
23 letter law says there is no discovery. In a subpart (L)
24 proceeding, a different regime is sort of in place, once we
25 grant a hearing, or if we grant a hearing, then the Staff,

1 within a certain period of time but normally at least 30
2 days and often more, will file a hearing file, and that will
3 contain all the information that you were -- the type of
4 information that you were referring to.

5 MR. KAMIN: Well, see, Your Honor, here's my
6 problem.

7 JUDGE BECHHOEFER: But before we get there, what
8 I'm saying is before we get there, you have to establish in
9 the request for hearing that you have --

10 MR. KAMIN: I'm the aggrieved party and I have
11 standing.

12 JUDGE BECHHOEFER: -- standing, and that would
13 involve probably at least one area of concern that could be
14 affected by the plan.

15 MR. KAMIN: Well, the areas of concern certainly
16 are the groundwater issue, the water line issues, the fact
17 that we are concerned with the public health, safety and
18 welfare with respect to the handling of this material and
19 how they are going to get it down to the 10 picocuries, the
20 execution issues, and, as I say, the geology and the
21 hydrology issues become very important as well as the fact
22 that I have an active oil and gas well there.

23 Very frankly, you know, one of the problems I have
24 in this establishment is that much of the documentation
25 which I need to convince you of my area of concern has not

1 been forthcoming from either the NRC or from Molycorp.

2 JUDGE BECHHOEFER: But you normally wouldn't get
3 it in a subpart (L) proceeding until the hearing file is
4 established.

5 MR. KAMIN: But I don't get a hearing file unless
6 I'm an aggrieved party.

7 JUDGE BECHHOEFER: That's correct.

8 MR. STRUK: Judge, if I can --

9 JUDGE BECHHOEFER: And all we have to do is find
10 your standing and you have to file your -- you should have
11 had available at least public access to the decommissioning
12 plans, both Part 1 and Part 2.

13 MR. STRUK: Judge, this is Randy Struk --

14 JUDGE BECHHOEFER: From that, you could normally
15 say what your problems were. At that stage, your areas of
16 concern -- we might well let you further supplement your
17 statement as to areas of concern. All you will have to have
18 is one in order to have your request for a hearing granted
19 and --

20 MR. KAMIN: But now, one of the --

21 MR. STRUK: Mr. Kamin, I've been trying to make a
22 point here, and if you would let me do that, I would
23 appreciate it. This is Randy Struk.

24 JUDGE BECHHOEFER: Okay.

25 MR. STRUK: There has been a reference to a lack

1 of communication, Judge, and as I think I've advised the
2 Court on numerous occasions, Molycorp, despite not having a
3 legal obligation to turn over information, has provided
4 voluminous material to the Township.

5 The Part 1 decommissioning plan was made available
6 to the Township I believe as early as early 1997. All the
7 documents that Molycorp filed of record with the NRC in
8 connection with its decommissioning plan were made available
9 at Molycorp's offices. Most recently, perhaps in November
10 of 1999, we actually went ahead and made copies for Mr.
11 Kamin so he wouldn't have to come to our offices to look at
12 them there or the Township commissioners would not have to
13 drive a mile or so over to our offices to look at these
14 records.

15 Our 2 decommissioning plan is and has been
16 available since its filing at Molycorp. These records have
17 been and are available.

18 In addition, as I noted to the Court in a recent
19 letter, we have been making documents available on the
20 Internet. Because we're dealing with voluminous records
21 that require being converted into a digital form, we have --
22 we don't have all of the records converted yet, but we have
23 a great number of records that are available.

24 So the suggestion by Mr. Kamin that he has been
25 stonewalled for information quite frankly is misleading and

1 incorrect.

2 MR. KAMIN: Well, I beg to differ with you, Mr.
3 Struk. This is Sam Kamin. There are a number of things
4 --and I think what's very telling, you haven't converted all
5 of the information yet. In the meantime, I'm in the midst
6 of a proceeding without having the documents to review. For
7 example, the SSAB report is not on your Web site.

8 MR. STRUK: But you have that, Mr. Kamin.

9 MR. KAMIN: Yes, I have that, but you keep saying
10 everything is on the Web site.

11 MR. STRUK: This is Randy Struk again. If we're
12 dealing with issues of you not having information, I think
13 it's a little bit misleading to suggest or raise a document
14 when you just admitted that you have it.

15 MR. KAMIN: Well, the long and the short, though,
16 Randy, is when you come down to it, whenever I find -- and
17 what was particularly disturbing to me is when I find out
18 for the first time I'm dealing with radium as opposed to
19 thorium or in addition to thorium, and I have to find that
20 out because of an undated letter that is contained in one of
21 Mr. Hull's letters questioning my standing.

22 MR. STRUK: This is Randy Struk again.

23 Actually, Judge, all the elements have been
24 identified in the filing, so they're in there.

25 MR. KAMIN: Sam Kamin.

1 By the way, your exhibits are not on the Web site.

2 MR. STRUK: No, the documents -- this is Randy
3 Struk -- the documents I provided you, including the Part 1
4 decommissioning plan, include this information, the site
5 characterization report. It's in there --

6 JUDGE BECHHOEFER: Let me interrupt. This is
7 Judge Bechhoefer. I have determined and Judge Cole agrees
8 that based on the prior filing as interpreted in light of
9 the recent Staff SER, I believe that Canton Township does
10 have standing and I'm going to issue an order to that
11 effect.

12 They have proffered at least one area of concern,
13 the municipal water line, which is involved in Part 1 as
14 well as perhaps Part 2. But -- or may be involved. There
15 may be problems with respect to it.

16 So I think that's enough for standing, and I
17 expect to issue an order saying that and granting the right
18 to a hearing, and then permitting supplementation of -- I
19 will -- as a subpart (G) proceeding, you always get a right
20 to supplement your bare contentions or your initial
21 statement. I think subpart (L) should offer -- it's a less
22 formal hearing and it shouldn't require more specificity to
23 get in than do subpart (G) proceedings.

24 In any event, I'll allow the Canton Township a
25 certain amount of time, perhaps 30 days from the date I

1 issue an order, which will be in the next few days based on
2 the conference --

3 MR. HULL: Judge Bechhoefer, John Hull for the NRC
4 Staff.

5 Just a point of clarification. I assume you're
6 going to specify in your order that you're finding that
7 Canton has standing regarding Part 1 of the site
8 decommissioning plan? Because that's the only site
9 decommissioning plan that's before you at the moment.

10 JUDGE BECHHOEFER: Well, as I say, I interpreted
11 the notice of opportunity differently. But I can limit -- I
12 will limit my finding of standing to Part 1. And I am not
13 sure that the proceeding should be divided, but since --

14 MR. STRUK: Well, let me ask a question, Your
15 Honor.

16 JUDGE BECHHOEFER: It wasn't separately noticed --
17 well, it may be separately noticed, and in which case we
18 will require a supplemental response to when the notice goes
19 out so that we can determine areas of concern more
20 particularly for Part 2. But for Part 1, we think based on
21 the somewhat inconclusive statements in the initial
22 statement of -- the notice of opportunity -- I'm sorry --
23 based on that, we will find that the Township has set forth
24 at least one area of concern and perhaps more than one, and
25 we will allow them, based on the filing of the Staff's SER,

1 to supplement that area of concern.

2 We will not -- we will not make any findings with
3 respect to Part 2 since technically that, at least in the
4 view of the Staff, isn't before us. But as long as the
5 Township is advised that a Federal Register Notice on Part 2
6 is going to be issued and are given a reasonable opportunity
7 to respond within whatever the time is -- usually 30 days
8 from publication, but sometimes it's only 20 -- but whatever
9 that time is, as long as Canton Township has an adequate
10 notice, then we will limit our findings here to Part 1.

11 MR. STRUK: Judge, this is Randy Struk.

12 There's just one point. You made reference, and
13 so did Mr. Kamin, to this water line issue. As both Mr.
14 Kamin and Mr. Smith are aware, Molycorp has entered into an
15 agreement to have the water line abandoned and, in fact, the
16 water company is in the process of finalizing approval for
17 rerouting the water line.

18 The only hold-up has been the fact that there is
19 some new development apparently going on with a mall that
20 has prevented the water company from getting approval from
21 the Pennsylvania Department of Transportation for its
22 intended new access. But we already have an agreement which
23 has been reduced to writing with the water company that is
24 in the process of final legal review by the water company
25 for relinquishment of the right-of-way and abandonment of

1 the water line. So that has really been a non-issue since
2 November of 1999 when this agreement was reached.

3 MR. KAMIN: Excuse me. With all due respect, Mr.
4 --

5 JUDGE BECHHOEFER: Well, as soon as that happens,
6 Canton can be consulted and asked whether that removes their
7 area of concern. But I think as it stands now, without any
8 final agreement or anything submitted to me that I -- I've
9 been told, yes, that an agreement was in process. I think,
10 as I mentioned in the earlier temporary storage provision,
11 until such an agreement is actually reached, it still can be
12 an area of concern.

13 MR. STRUK: Very well, Judge. Randy Struk. Thank
14 you.

15 JUDGE BECHHOEFER: But that doesn't mean that I
16 won't eliminate it once the agreement is reached --

17 MR. STRUK: Very good.

18 JUDGE BECHHOEFER: -- and submitted to me and
19 Canton Township, too, to see whether that removes their
20 concern.

21 MR. SMITH: Judge, this is Chad Smith, the
22 Chairman of Supervisors Board of Canton Township.

23 JUDGE BECHHOEFER: Right.

24 MR. SMITH: I would like to respond to something
25 that Mr. Struk just said.

1 He talked about this agreement about this water
2 line. The one thing that I want to bring up and I want to
3 bring before Your Honor is that simply moving that water
4 line or simply disconnecting it does not account for
5 off-site migration that may have occurred because they chose
6 to put a considerable amount of radioactive material on top
7 of it, on top of a 100-year-old water line.

8 In fact, if that line has had any joint leakage,
9 it very well may have compromised the environment, it may
10 have entered the water system. And also, our citizens are
11 quite concerned simply because of the fact that a change now
12 doesn't mean that they may not have been drinking infected
13 water for 20 years.

14 MR. STRUK: This is Randy Struk.

15 In response to that, Judge, the water company has
16 tested the water. The pile that I think Mr. Smith is
17 referring to wasn't actually directly over the water line.
18 In fact, it had been plotted out and shown to the Township.

19 MR. SMITH: Mr. Struk --

20 MR. STRUK: These are all issues we can get into,
21 Judge, when and if they raise this as an area of concern.

22 MR. SMITH: In all due respect, in all due
23 respect, Randy, and this is the last comment I'll make about
24 this -- this is Chad Smith, the Chairman of the Supervisors
25 Board of Canton Township. I welcome the opportunity for the

1 water company or the NRC or Molycorp to uncover the line so
2 that we can actually see on Coldwell Avenue exactly where
3 this is, because there's a lot of misconception about where
4 that line is and we'd like to know.

5 As a township, our people and about 10,000 people
6 who live around the City of Washington would like to know
7 exactly where that line is and not to be shown a map. It's
8 a very simple job of uncovering the valve on Coldwell Avenue
9 and we'll know exactly where it is.

10 MR. KAMIN: Your Honor, may I get into another
11 matter at this point? Sam Kamin. Your Honor --

12 JUDGE BECHHOEFER: I want to go on mute just for a
13 minute. I'll be back in a minute.

14 [Off the record.]

15 JUDGE BECHHOEFER: We're back.

16 Yes?

17 MR. KAMIN: Your Honor, as a matter of
18 housekeeping, we have a motion to compel and also a
19 scheduling request in front of you at this time. That's
20 what I sent you earlier and what precipitated this matter.

21 JUDGE BECHHOEFER: Yes, that's correct.

22 MR. KAMIN: Now, one of the things that we had is,
23 on our areas of concern, I would like to make sure that our
24 time to file our areas of concern are at least in some way
25 tied to our receiving the documentation necessary in order

1 for us to file an appropriate pleading with you.

2 So if you can consider that particular matter in
3 your scheduling order, I would like you to consider that,
4 and also, so that there is no conflict between that order
5 and the prior orders, I at least would like to have the new
6 order supersede the prior orders in this matter because I
7 had some concern or at least some ambiguity in my mind as to
8 when we were required to do anything, and that was what
9 precipitated my filing this particular motion with you.

10 MR. STRUK: Judge, this is Randy Struk.

11 I was under the understanding based upon your
12 comments that you've made with respect to discovery and
13 informal hearing that we have essentially resolved this
14 issue of discovery.

15 MR. KAMIN: Well, I'm not worried so much about
16 discovery as that we have --

17 JUDGE BECHHOEFER: Well, you'll have to have
18 access to Part 2 of the plan in order to submit areas of
19 concern. Where you'll get that access, is the Staff -- will
20 there be a local publication of it or a local availability
21 of Part 2?

22 MR. STRUK: Judge, this is Randy Struk. I will
23 make a copy for Mr. Kamin and deliver it to him, although,
24 as I understood it, this proceeding is a Part 1 proceeding.

25 JUDGE BECHHOEFER: It is. It is.

1 MR. STRUK: I will make Part 2 available to -- in
2 fact, I'll make a copy of it and deliver it to his office so
3 that he doesn't have to go look at it at ours.

4 JUDGE BECHHOEFER: Yes. I also had thought that
5 when we asked the Staff to send notice -- or advise Canton
6 Township that the notice of opportunity for Part 2 was going
7 to be published, they would advise the Township, and that
8 the notice of opportunity will give, I think, at least 20,
9 probably 30 days to submit a request and Canton Township
10 could, within that period of time, submit its initial
11 request. That was what I had in mind.

12 MR. KAMIN: Okay. Well, that's fine, Your Honor,
13 but there is one other thing here which is of concern to me
14 which again precipitated, and that was the letter which Mr.
15 Dawes sent to -- or Larry Camper from the decommissioning --
16 NRC sent to Mr. Dawes which indicates I'm also dealing with
17 radium as well as thorium, which is a brand new issue
18 because it is obviously a different material with a
19 different half life. I'm just wondering is there anything
20 out there like that besides the letter which we accidentally
21 stumbled on.

22 JUDGE BECHHOEFER: All right.

23 MR. HULL: This is John Hull for the Staff.

24 I sort of object to that characterization. We
25 made a very careful effort in that August letter to bring

1 everybody up to date as to what was going on with the site
2 decommissioning plan, Part 1, and to say that you
3 inadvertently stumbled upon it is really a bit much.

4 There was another point, Mr. Kamin, you made
5 earlier about asking the Judge to supersede prior orders. I
6 wanted some clarification on that. The only order I'm aware
7 of in this SEB Part 1 proceeding is the April 2000 ruling of
8 Judge Bechhoefer. Is that what you're asking him to
9 supersede?

10 MR. KAMIN: What I'm asking him to do is, there
11 were some scheduling matters in that order, and I'd have to
12 go back and get it in front of me, which triggered my filing
13 responses, and I want to make sure that I am not going to be
14 delinquent in that earlier order.

15 JUDGE BECHHOEFER: Well, that earlier order, all
16 that did for the decommissioning proceeding was to defer
17 action. I never set any dates or anything for
18 decommissioning.

19 MR. KAMIN: Well, what you said, Your Honor, and
20 let me just get it for a moment, and this is something that
21 I would --

22 JUDGE BECHHOEFER: I guess I did set a 30-day date
23 --

24 MR. KAMIN: Yes, you did. You set a 30-day date
25 and I was concerned when that 30-day date was going to --

1 when was the 30-day date --

2 JUDGE BECHHOEFER: That was going to run from the
3 time you received --

4 MR. KAMIN: What you said, Your Honor, is this:
5 Proceedings in a decommissioning proceeding are deferred.
6 Canton may file its amended request for a hearing within 30
7 days of submission by Molycorp of the remainder of its site
8 decommissioning plan.

9 JUDGE BECHHOEFER: Yes. Maybe my submission
10 language wasn't quite right.

11 MR. KAMIN: And that's what concerned me, and
12 that's item number 7 of your order of April 11, 2000.

13 JUDGE BECHHOEFER: Yes. Yes. Maybe the word
14 submission is wrong because that could be construed as
15 meaning filing with the Commission, or it could be construed
16 as submission to Canton Township. But given the fact that
17 there's going to be a new opportunity for hearing, I would
18 supersede all of those dates --

19 MR. KAMIN: And that's the only one I'm concerned
20 with, Your Honor.

21 JUDGE BECHHOEFER: -- but the date specified in
22 the notice of opportunity, which you should -- I think you
23 will be given notice as soon as it's published in the
24 Federal Register, or maybe prior to publication, for all I
25 know, in the Federal Register.

1 MR. KAMIN: I think Mr. Hull said he would give me
2 prior notice.

3 JUDGE BECHHOEFER: Prior notice, right. So that
4 would give you plenty of time and that will supersede my
5 earlier --

6 MR. KAMIN: Paragraph 7.

7 [Pause.]

8 JUDGE BECHHOEFER: Right. Having reread that, it
9 said what I remembered it to have said. That will be
10 superseded by the filing date specified in the Staff notice
11 that's going to come out. So if you file -- a timely
12 response to that will be a timely response to what we set
13 forth in our order.

14 MR. KAMIN: Okay.

15 JUDGE BECHHOEFER: And I will make it clear that
16 we superseded that particular 30-day statement.

17 MR. KAMIN: Well, that was an item of concern. I
18 thank you for that, Your Honor.

19 JUDGE BECHHOEFER: Right.

20 MR. KAMIN: And that was Sam Kamin.

21 MR. STRUK: Judge, this is Randy Struk.

22 As I guess a final housekeeping matter, is there
23 really a need, then, for me to go ahead and file a formal
24 response to this motion for discovery in light of our
25 conversations today?

1 JUDGE BECHHOEFER: No, there is not.

2 MR. KAMIN: Sam Kamin.

3 I was going to say, Randy, I don't think it is. I
4 think we've disposed of the issue.

5 MR. STRUK: Thank you, Judge. Thank you, Sam.

6 JUDGE BECHHOEFER: It will be -- this is a
7 transcribed conversation, so your response will be there.

8 To the extent you wish to appeal our order
9 granting a hearing to the Commission, I don't know whether
10 you -- you may need a transcript of this proceeding to do
11 that.

12 MR. STRUK: This is Randy Struk.

13 I was going to request a copy in any event, Judge.

14 JUDGE BECHHOEFER: Well, we can't give out for
15 free transcripts.

16 MR. STRUK: Oh, I understand. I was going to make
17 arrangements with the court reporter for that.

18 JUDGE BECHHOEFER: Oh. Yes, that's perfectly
19 permissible. In fact, that's the way we're supposed to do
20 things.

21 MR. HULL: I take it from what was just said,
22 then, that the Staff's response to the motion to compel
23 which was due tomorrow, there's no need for the Staff to
24 file that response now?

25 JUDGE BECHHOEFER: That's correct. That's

1 correct.

2 MR. HULL: Okay.

3 MR. KAMIN: To the court reporter -- this is Sam
4 Kamin -- on behalf of Canton Township, may I also request a
5 copy of the transcript? So Molycorp is going to want one,
6 I'll want one. I don't know -- Mr. Hull, will you want one?

7 MR. HULL: We get one automatically.

8 JUDGE BECHHOEFER: The Staff gets one
9 automatically, as do we.

10 MR. KAMIN: Okay. Then Canton Township -- I would
11 like to do that, and do you need my address, where to send
12 it?

13 THE REPORTER: Yes, I do.

14 MR. KAMIN: It's Samuel P. Kamin, 1806 Frick,
15 F-r-i-c-k, Building, Pittsburgh, Pennsylvania 15219-6101.

16 THE REPORTER: May I have your phone number, too,
17 sir?

18 MR. KAMIN: Yes. Area Code 412-281-1119.

19 THE REPORTER: Thank you.

20 MR. STRUK: This is Randy Struk.

21 I can give you my address when we're done with the
22 Judge.

23 THE REPORTER: Fine.

24 JUDGE BECHHOEFER: Okay.

25 MR. STRUK: Judge, this is Randy Struk again. I

1 guess there is one other issue relating to the City of
2 Washington's involvement in this and the fact that, I think
3 as you've noted, they did not file a request for hearing in
4 connection with the November '99 notification. So it is our
5 position that they are not a party to this and --

6 JUDGE BECHHOEFER: That's my position as well.
7 Nor did they file a request to appear as an interested
8 municipality, which is permitted under subpart (L) as well
9 as under subpart (G). If they did that, they could
10 participate and they wouldn't be bound by any time schedule,
11 they would take the proceeding as they find it. But they
12 haven't done that, either.

13 MR. HULL: This is John Hull for the Staff.

14 The Staff would concur with that position. The
15 Staff feels that the City of Washington is not a party or
16 even an intervenor in the site decommissioning plan
17 proceeding.

18 JUDGE BECHHOEFER: That's correct. They haven't
19 even sought to become a party, haven't filed a thing except
20 this latest motion, and I propose to dismiss or deny the
21 motion because it's not permitted to be filed. At least in
22 the absence of receiving any request for intervention or for
23 appearances of interested state, we can't entertain it at
24 all. So I plan to dispose of it on that basis.

25 I would also hope that the City of Washington

1 would get through executing the agreement to terminate the
2 other proceeding. If worse comes to worse, I could issue an
3 order to show cause why they shouldn't be dismissed from
4 that proceeding.

5 MR. STRUK: Judge, this is Randy Struk. I'll take
6 the oar and take one last effort to get a hold of Mr. Snyder
7 and see if we can get the paperwork resolved for that.

8 JUDGE BECHHOEFER: That's what I would love to do.
9 None of us want to keep it on our books when it's not a
10 proceeding anymore, really. It's mooted, in my view anyway,
11 and I guess everybody else's.

12 MR. KAMIN: Your Honor, this is Sam Kamin. Can I
13 give you one last housekeeping issue?

14 JUDGE BECHHOEFER: Okay.

15 MR. KAMIN: Whenever we were setting up the
16 conference call, you had at the time thought that you might
17 want a prehearing conference at a location near the Molycorp
18 site.

19 JUDGE BECHHOEFER: And I think at some time when
20 it will be necessary to maybe walk over issues to be dealt
21 with in the proceeding, it might be desirable to have a
22 prehearing conference of this sort, and we think we could
23 even do this prior to -- well, as I mentioned, I think we
24 will permit Mr. Kamin to supplement their areas of concern
25 in Part 1 based on new information that appeared in the

1 Staff's filings and anything else they may have found out
2 since the initial areas of concern were filed.

3 We have found enough areas of concerns, at least
4 the one I mentioned and several others as well, sufficient
5 to warrant the granting of a hearing, but we think that the
6 areas of concern should be supplemented, and following that,
7 perhaps we can -- particularly if there's any disagreement
8 either from the licensee or the Staff, either one, we could
9 resolve those differences at a prehearing conference near
10 the site, near one of the locations in the Washington,
11 Pennsylvania, area, and we could, at the same time, we could
12 hold limited appearance statements, which any member of the
13 public could make a brief statement, five minutes or so, and
14 we could do that as well.

15 MR. KAMIN: Randy, this is --

16 JUDGE BECHHOEFER: But we would provide I would
17 guess at least 30 days for supplementing the areas of
18 concern first. Well, approximately 30 days from when I get
19 around to issuing an order, which will be in the next day or
20 two. It won't be today, but -- oh, wait. One minute. I
21 want to go to mute.

22 [Pause.]

23 JUDGE BECHHOEFER: We're back.

24 MR. WOLF: Judge Bechhoefer, this is Attorney
25 David Wolf. I'm in Sam Kamin's office. He had to run down

1 the hall, he'll be right back.

2 JUDGE BECHHOEFER: Okay.

3 MR. WOLF: If we've disposed of all the business
4 matters, we can continue, but --

5 JUDGE BECHHOEFER: We have one. We were
6 discussing some dates for supplementing areas of concern in
7 Part 1, and sometime after the issuance of the hearing file,
8 there clearly is a time when we will allow issues at least
9 to be defined more precisely, but I think we should all,
10 prior to that, -- maybe 30 days from now, we should allow
11 the Township to supplement their areas of concern, and they
12 would be based in part on what's in the Staff's SER and the
13 issues as defined there, some of which overlap what we
14 already have, but they can define some of them more
15 precisely, their areas of concern, and the EA too, the EA as
16 well. The Township may supplement, approximately 30 days
17 from when I issue an order, their areas of concern.

18 The Staff can also -- if we issue a notice of
19 hearing, what would the Staff -- normally you get 30 days
20 for a hearing file, but is that okay for the hearing file in
21 this case or would the Staff just as soon take a little
22 longer? Because we can grant -- we don't have to limit it.
23 I think it's at least 30 days we give.

24 MR. HULL: Yes. I think it's within your
25 discretion, Your Honor. If you are going to grant Canton's

1 hearing request in the Part 1 proceeding --

2 JUDGE BECHHOEFER: Yes, we are.

3 MR. HULL: Yes. Then I think it's within your
4 discretion to give the Staff a longer period of time than 30
5 days to submit a hearing file. That may be necessary in
6 this case because, from what I understand, there's quite a
7 large volume of documents that's involved. So, you know,
8 absent more time, the Staff may end up having to request
9 more time from you in that regard.

10 JUDGE BECHHOEFER: Well, what would you like?
11 Would you like to have me rule from the start that you get
12 at least what?

13 MR. HULL: Hold on a second, please.

14 JUDGE BECHHOEFER: Say we issue an order in the
15 next few days and we'd give you at least 30, but you might
16 want 45 or 60 or even --

17 MR. HULL: Let me put you on mute for a minute.

18 JUDGE BECHHOEFER: Okay. Okay.

19 MR. KAMIN: Your Honor, I would think they are
20 probably going to need at least 45 days.

21 Sam Kamin.

22 JUDGE BECHHOEFER: Well, let me hear from the
23 Staff.

24 MR. HULL: The Staff would request 60 days to get
25 a hearing file for the site decommissioning plan, Part 1.

1 MR. KAMIN: Canton Township would have no
2 objection, Your Honor.

3 JUDGE BECHHOEFER: Okay. What about Molycorp?

4 MR. STRUK: I have no objection, Your Honor.
5 Randy Struk from Molycorp.

6 JUDGE BECHHOEFER: Okay. We will issue an order
7 within the next few days and we will give the Staff 60 days
8 to file a hearing file. I'll probably put a date in it, but
9 just so it doesn't hit a holiday or a Saturday or a Sunday.
10 We will give time after the hearing file, and I guess it
11 depends how big it is, for the areas of concern to be made
12 into issues or developed into issues.

13 MR. KAMIN: Yes. I think, Your Honor, you'll find
14 that the hearing file is going to be quite substantial. Sam
15 Kamin. So I think once you see what the hearing file looks
16 like, you'll get a better handle on the issue.

17 JUDGE BECHHOEFER: Fine. Well, we'll also kind of
18 plan when it would be a good time to come up and hold a
19 prehearing and look at the site. Dr. Cole and myself would
20 both like to see some of the things that we've heard
21 described on paper, at least.

22 MR. KAMIN: I would think, Your Honor -- Sam Kamin
23 again -- that you probably don't have to wait for my
24 response after the hearing file. I believe that a site view
25 by you would be most beneficial so that you could understand

1 the various issues in this case. It certainly would help
2 you rule upon the pleadings in this matter and the issues.
3 So I would encourage the Court to view the site.

4 JUDGE BECHHOEFER: Yes. I believe that sometime
5 after we get your first initial supplement approximately 30
6 days from now -- I'll put an exact date in, but after that,
7 we will decide a good time to take a site tour, and we will
8 come up to the area and do that, and that's the schedule.
9 We will not wait for the final statement of issues. In
10 fact, the prehearing conference may help us define or help
11 the parties define what really are issues, what are not
12 merely areas of concern but specific issues to litigate.

13 MR. STRUK: That is fine, Your Honor.

14 JUDGE BECHHOEFER: Sometime after we get the
15 30-day supplement, and how long it will take, I don't know,
16 I think we probably will fly to Pittsburgh and rent a car
17 rather than trying to drive up, but I'm not really sure what
18 the best way is.

19 MR. KAMIN: Actually, I just came up from
20 Washington, Your Honor, and it was easier to drive than to
21 go to Greater Pitt Airport.

22 JUDGE BECHHOEFER: Oh. How long a drive is it?

23 MR. KAMIN: I made it in four hours to the
24 Pentagon. From my house to the Pentagon was four hours.
25 That, of course, is up to you.

1 JUDGE BECHHOEFER: Well, I don't think it would
2 take us that long to fly and rent a car, but how far is the
3 site from the Pittsburgh Airport?

4 MR. STRUK: Judge, this is Randy Struk.

5 From Pittsburgh Airport, depending upon traffic,
6 you're looking at approximately 45 minutes.

7 MR. KAMIN: I would agree.

8 JUDGE BECHHOEFER: Yes. And it's less than an
9 hour flight.

10 MR. STRUK: Judge, Randy Struk. It's a 35-minute
11 flight.

12 JUDGE BECHHOEFER: Right. So it would probably be
13 easier to fly, but let us worry about that.

14 MR. KAMIN: Okay.

15 JUDGE BECHHOEFER: We'll set some sort of a
16 schedule. Are there hotel accommodations in the Washington
17 area?

18 MR. STRUK: Judge, yes. This is Randy Struk.
19 There is a Holiday Inn at the Meadowlands, which is
20 approximately a 20-minute -- actually, probably even
21 shorter, ten-minute drive to the facility, which probably
22 would be the nicest place to stay, although there are some
23 places in Washington and maybe Mr. Smith might be able to
24 make a recommendation.

25 Chad, what do you think from a hotel standpoint?

1 MR. SMITH: Yes, there's a couple of choices.
2 This is Chad Smith from Canton Township. Judge, you have a
3 choice. There's a Ramada Inn in Washington and there's also
4 a Hampton Inn, and there's a brand new -- it's run by
5 Marriott, it's the suites up on -- it's close -- if you'd
6 like, I can give Sam some information and we can forward
7 that to you.

8 MR. KAMIN: What we'll do, Your Honor, is we'll
9 forward you a list of four different hotels. Your staff can
10 make whatever recommendation they want -- or they can make
11 whatever reservations they want.

12 JUDGE BECHHOEFER: Right. Okay. We'll probably
13 -- well, we always look for ones that offer U.S. Government
14 rates. I think all of these do.

15 SPEAKER: Your Honor, I work for the Commonwealth
16 of Pennsylvania, and I assure you they all do.

17 JUDGE BECHHOEFER: Okay. All of them sound --
18 particularly Ramada and Marriott sound fine. So anyway,
19 that shouldn't be a problem.

20 Okay. Well, we'll issue an order pretty much the
21 way I've described it. Is there anything further that we
22 haven't covered?

23 MR. KAMIN: I think we have covered almost
24 everything. Randy, have I missed anything or have you
25 missed anything?

1 MR. STRUK: Not that I can -- this is Randy Struk
2 -- not that I can presently recall. Nothing is coming to
3 mind right now, Sam.

4 MR. KAMIN: Okay. Then I think we've probably
5 finished our business, Your Honor, and I thank you for
6 expediting the matter.

7 JUDGE BECHHOEFER: Well, you know, I like to see
8 these things move along if we can, and without prejudicing
9 people's preparation or anything. I think a conference
10 where we could discuss these various matters is a lot easier
11 than submitting matters in writing for everything.

12 So anyway, we thank you all, and Dr. Cole and
13 myself at least will see you all at some point near
14 Pittsburgh.

15 MR. KAMIN: Okay. Thank you very much, Your
16 Honor.

17 MR. STRUK: Thank you. This is Randy Struk. If
18 the court reporter could remain on the line for just a
19 moment. If there's a number -- if you're in your office,
20 I'll call you just to make arrangements for the transcript
21 and find out when I can expect to get a copy of it.

22 THE REPORTER: Fine.

23 MR. STRUK: Thank you.

24 MR. KAMIN: This is Sam Kamin. Perhaps if she
25 remains on, we can both make that same arrangement, Randy,

1 so we get --

2 MR. STRUK: We can try. I suspect, though, when
3 the Judge hangs up, all of us are going to be cut off.

4 MR. KAMIN: Very simply, she has our addresses,
5 Randy.

6 MR. STRUK: Yes.

7 MR. KAMIN: And maybe she can just tell us how
8 long it might take to transcribe, and that will just take
9 it, and then we don't have to start calling back and you and
10 I making multiple calls.

11 THE REPORTER: Your Honor, this is the court
12 reporter. If I may respond?

13 JUDGE BECHHOEFER: Yes.

14 THE REPORTER: The transcript is due within a week
15 from today, and we can e-mail it, fax it, send it by FedEx.

16 MR. KAMIN: Can I give you a -- this is Sam Kamin
17 -- may I give you an e-mail number?

18 THE REPORTER: Yes.

19 MR. KAMIN: The e-mail number is
20 SAMK@GKGattorneys.com.

21 THE REPORTER: Okay.

22 MR. STRUK: Judge, I don't want to keep you on
23 while I give her my e-mail address, so if we're done.

24 STAFF MEMBER: Can we sign off, Your Honor? This
25 is the staff?

1 MR. HULL: As far as we're concerned, you can.

2 MR. HULL: Okay. Bye-bye.

3 JUDGE BECHHOEFER: We'll sign off as well.

4 MR. KAMIN: Bye.

5 MR. STRUK: Bye.

6 [Whereupon, at 3:10 p.m., the conference call
7 adjourned.]

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REPORTER'S CERTIFICATE

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

NAME OF PROCEEDING: ASLBP - CONFERENCE CALL
MOLYCORP, INC.

PLACE OF PROCEEDING: Rockville, MD

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



Ann Riley

Official Reporter

Ann Riley & Associates, Ltd.