

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: Private Fuel Storage
Independent Spent Fuel Storage Installation

Docket Number: 72-22-ISFSI; ASLBP No.: 97-732-02-ISFSI

Location: (telephone conference)

Date: Wednesday, February 6, 2002

2002 FEB 15 AM 11:11
OFFICE OF THE SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

DOCKETED
USNRC

Work Order No.: NRC-226

Pages 2870-2921

NEAL R. GROSS AND CO., INC.
Court Reporters and Transcribers
1323 Rhode Island Avenue, N.W.
Washington, D.C. 20005
(202) 234-4433

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
+ + + + +
ATOMIC SAFETY AND LICENSING BOARD
PREHEARING TELEPHONE CONFERENCE

+ + + + +

-----x

In the matter of:
PRIVATE FUEL STORAGE, LLC : Docket No. 72-22-ISFSI
(Independent Spent Fuel : ASLBP No. 97-732-02-ISFSI
Storage Installation) :

-----x

Wednesday, February 6, 2002

via telephone conference call

The above entitled matter came on for hearing,
pursuant to notice, at 10:00 a.m.

BEFORE:

THE HONORABLE MICHAEL C. FARRAR, CHAIRMAN

THE HONORABLE PETER S. LAM, ADMINISTRATIVE JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

On Behalf of the Applicant:

JAY E. SILBERG, ESQ.

PAUL A. GAUKLER, ESQ.

Shaw Pittman, LLP

2300 N Street, N.W.

Washington, D.C. 20037-1128

(202) 663-8063

On Behalf of the State of Utah:

DENISE CHANCELLOR, ESQ.

Assistant Attorney General

CONNIE NAKAHARA, ESQ.

Utah Attorney General's Office

160 East 300 South, 5th Floor

P.O. Box 140873

Salt Lake City, Utah 84114

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 APPEARANCES: (CONT.)2 On Behalf of the Nuclear Regulatory Commission:

3 SHERWIN E. TURK, ESQ.

4 CATHERINE MARCO, ESQ.

5 ROBERT WEISMAN, ESQ.

6 Office of the General Counsel

7 U.S. Nuclear Regulatory Commission

8 Washington, D.C. 20555

9 (301) 415-1575

10

11 On Behalf of the Intervenor, OGD:

12 PAUL C. ECHOHAWK, ESQ.

13 MARK ECHOHAWK, ESQ.

14 EchoHawk Law Offices

15 151 North 4th Avenue, Suite A

16 P.O. Box 6119

17 Pocatello, Idaho 83205-6119

18

19 On Behalf of the Intervenor, Skull Valley Band:

20 TIM VOLLMANN, ESQ.

21 3301-R Coors Road N.W., Suite 302

22 Albuquerque, New Mexico 87120

23

24

25

NEAL R. GROSSCOURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES: (CONT.)

ALSO PRESENT:

JACK WHETSTINE, ASLBP.

CYNTHIA HARBAUGH, ADM/DFS/PSB

MARK DELIGATTI, NMSS/SFPO/SLID

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

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

(10:02 a.m.)

1
2
3 CHAIRMAN FARRAR: Good morning. We are
4 going to have the proceedings transcribed. Is the
5 court reporter on here?

6 COURT REPORTER: Yes, I'm here.

7 CHAIRMAN FARRAR: Okay. And for the
8 state, whom do I have?

9 MS. CHANCELLOR: Denise Chancellor.

10 CHAIRMAN FARRAR: For the company?

11 MR. SILBERG: We have Jay Silberg and Paul
12 Gaukler.

13 CHAIRMAN FARRAR: Okay. For the staff?

14 MR. TURK: Sherwin Turk, Catherine Marco,
15 Robert Weisman and Mark Delligatti.

16 CHAIRMAN FARRAR: Mr. Reporter, if at any
17 time you need somebody to repeat names or something,
18 just interrupt if you would.

19 For OGD?

20 PAUL ECHOHAWK: Paul Echohawk.

21 CHAIRMAN FARRAR: All right. Mr.
22 Vollmann, are you on?

23 MR. VOLLMANN: Yes, I am.

24 CHAIRMAN FARRAR: Okay. I understand you
25 may have to leave early.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. VOLLMANN: Well, on the hour.

2 CHAIRMAN FARRAR: Okay. We should be
3 finished before then. We got word that David Tufts
4 would not be with us and that Joel Walker might join
5 after a half hour or so. Is there anybody I
6 overlooked? Okay.

7 I'm on a speakerphone, I have a number of
8 NRC people here with me, our support people, our law
9 clerks. Cindy Harbaugh, our security person; Judge Lam
10 is with me, Judge Klein is not. Judge Bork is at a
11 meeting but may be joining us and, most important for
12 this call, Jack Whetstine who's been coordinating the
13 space situation.

14 I want to thank again -- oh, let me say
15 for the benefit and forgive me for using this term --
16 the major parties involved in all the issues, the
17 state, the staff and the company called the other day
18 on the question of an extension of time on pre-filing
19 some of their testimony which involves only the three
20 of them. And because we have been working with the
21 state and the company on getting space, I shared with
22 them a little bit of what we're going to talk about
23 today.

24 Ms. Nakahara, are you on there? Ms.
25 Chancellor?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. CHANCELLOR: Yes?

2 CHAIRMAN FARRAR: Tell Ms. Nakahara thank
3 you for helping arrange this call. I thought it would
4 be simpler than it was. Tell her the next time I ask
5 her to do something like that she's welcome to
6 diplomatically say, we'd be much more comfortable,
7 your Honor, if you did that.

8 MS. CHANCELLOR: Always a pleasure, your
9 Honor.

10 CHAIRMAN FARRAR: I thought it was easy
11 since you all have been talking to all the parties and
12 extend her my apology for that.

13 MS. CHANCELLOR: I certainly will.

14 CHAIRMAN FARRAR: In any event here we
15 are, and I think the best way to do this, we've had a
16 lot of back and forth, Jack Whetstine has with you
17 all, and rather than tell you about all the fits and
18 starts, let me tell you what we have now and then I
19 will ask for your comments on how you think that'll
20 work.

21 First, I'll tell you what space we have
22 and then tell you how we would do the issues.

23 We would now start on the 8th, the 8th and
24 9th, at the Little America Hotel, and let me give you,
25 that's the one reason I'll give you is that the state

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 -- oh and then the last four days that week will be in
2 a state capitol hearing room. The state has found
3 another room on Tuesday but our people found that,
4 although we appreciate the effort, found that an
5 inadequate place to start the hearing.

6 We then came up with a space at the Little
7 America Hotel. The company came up with, and we thank
8 them for their efforts, the Holiday Inn for the week
9 of the 15th. Then, as you know, we had the Sheraton
10 for the next four weeks. The Holiday Inn is probably
11 not the most spacious place but we think that for the
12 second week it'll be adequate.

13 Now, in terms of the issues. Seismic
14 stays the same, starting on the week of the 29th and
15 the next week, and then we have the week, that would
16 be the week of May 6th. Then we have the week of May
17 13th, which would now be the spillover week if we need
18 a sixth week.

19 Starting at the beginning, our plan now
20 would be to start the hearing, and this is the
21 difference from the last time I talked to you, at nine
22 o'clock on Monday the 8th and knowing that your
23 witnesses aren't available till the 9th, we would open
24 the hearing with longer rather than shorter opening
25 statements.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 At the pre-hearing conference we had
2 talked about the fact that the board didn't need long
3 opening statements, but considering the way we're
4 doing things now, we think it would be useful to have
5 the longer opening statements. And what we have in
6 mind, and we'll talk about this later and see how much
7 time we have, would be 20 to 30 minutes for the
8 parties, the three parties, who are involved in all
9 the issues; 10 to 15 minutes for the four parties who
10 are not involved in all the issues, and then the board
11 would have a longer rather than shorter opening,
12 explaining what our role is and why we're here and
13 what we hope to accomplish.

14 We would then take a lunch break and at
15 two o'clock have the limited appearance statements,
16 rather than put them to a later day. The fact that we
17 have no witnesses that day, we would start with
18 limited appearances, have an afternoon session and an
19 evening session.

20 To the extent that we would have pre-
21 registration for that, we would have to keep them
22 short if we have a great number of people, but we are
23 also going to have limited appearances in Tooele High
24 School on Friday, April 26th. You may recall that
25 that's the day the Sheraton is not available to us, so

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 we use that that day to do the rest of the limited
2 appearances.

3 We don't have Little America on Tuesday
4 morning, and anticipating we may get stuck there, in
5 fact I would say don't bring in your documents Monday,
6 you probably won't need them for Monday's purposes
7 because they will be using that room Tuesday morning.
8 So we would start around 3:30, we're still working
9 with the hotel on the exact time, on Tuesday with your
10 first set of credible accident witnesses and make sure
11 we get a full day in, go say for five hours without a
12 dinner break.

13 Then we would go to the state capitol the
14 next three or four days, as need be, and work. While
15 we might set a nine to five schedule, we might have to
16 adjust that and make it longer, either starting
17 earlier or going later, in order to finish those
18 witnesses who are otherwise unavailable after that
19 week.

20 Then for the next two weeks, the weeks of
21 the 15th and the 22nd, we had contemplated doing the
22 three environmental issues the week of the 22nd, but
23 in that impromptu conference call with the three
24 parties last week, they had asked permission to be
25 able to maybe juggle those issues, depending on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 witness availability, and have some of them on the
2 15th, the week of the 15th. So the week of the 15th
3 and 22nd, we would do the three environmental issues
4 and the OGD environmental justice issue if that needs
5 to go to hearing, depending on our opinion which we're
6 working on.

7 Then, as I said, the seismic issues the
8 next two weeks, and then having a sixth week available
9 if we need it because something takes longer,
10 whatever.

11 But what I would like first is any
12 problems that schedule creates for any of you, and
13 then I want to spend, assuming it's not too much,
14 spend most of the time on discussions about that
15 opening day because we see a couple of potential
16 crowd-related problems with that.

17 Let me ask the state how this sounds to
18 you.

19 MS. CHANCELLOR: By the way, Judge Farrar,
20 Ms. Nakahara has joined us. The schedule sounds fine
21 with us.

22 CHAIRMAN FARRAR: Okay. The company?

23 MR. SILBERG: Sounds fine with us as well.
24 I have one minor question. What time on April 26th do
25 you see the appearance statement sessions being --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN FARRAR: I think we can't get the
2 auditorium until the kids go home, so you're talking,
3 you know, a late afternoon session, you know, three to
4 five, three to six, short dinner break, you know,
5 could be very short for the board. We'll pack
6 something in. And then go late in the evening.

7 Our plan I think is to set a defined
8 stopping time, leaving us the flexibility to go longer
9 if need be. So that day you'd be off. Oh and that
10 might be the day we would do the site tour, although
11 it might be easier on everybody given that everybody's
12 going to be pretty worn out after three weeks of
13 hearings, to do that, just devote a morning or half a
14 day to that, an off day during those weeks of the 15th
15 and 22nd, rather than try to do them together. But
16 we'll work that out later.

17 But the company has no problem with the
18 schedule?

19 MR. SILBERG: No, we do not.

20 CHAIRMAN FARRAR: Okay. Staff?

21 MR. TURK: Your Honor, in general we don't
22 have a problem. I have a couple of concerns I'd like
23 to express maybe that no one else shares these
24 concerns, and maybe your Honor doesn't feel they're
25 justified but I feel I should express them.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN FARRAR: Go ahead.

2 MR. TURK: First, the opening statements,
3 I really don't feel that we need as much time as
4 you're allowing us, and I'm wondering if instead of
5 starting at nine perhaps you could start at ten and
6 you could cut back on the time for those opening
7 statements.

8 CHAIRMAN FARRAR: I note your thought.
9 What's the other point?

10 MR. TURK: Second, I feel if we're going
11 to do it we should do it before we get too far into
12 testimony and, depending on your Honor's views, I
13 would suggest we do it either on the morning of the
14 9th or perhaps on the 15th, before we get into the
15 environmental contention.

16 CHAIRMAN FARRAR: I'll note those
17 suggestions. The morning of the 9th might not be good
18 because while I don't want to bill this for public
19 consumption, and please keep this to yourself even
20 though it's in our transcripts, we may end up staying
21 very late depending on how many people there are for
22 limited appearances.

23 MR. TURK: I understand.

24 CHAIRMAN: But I would have no problem,
25 depending on how you all, in other words, those two

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 weeks the 15th to the 26th, we have to accomplish six
2 things. We have to hear three or four issues, we have
3 to have limited appearances and we have to have a site
4 tour. We're willing to do those at whatever fits the
5 convenience of your witness, I think we put the
6 witness schedule first and we'll work around that.

7 MR. SILBERG: This is Jay Silberg. I
8 think it does make sense to have the site tour before
9 we get into the testimony and maybe we can start off
10 the week of the 15th with the site tour. I think that
11 would probably, assuming it doesn't really
12 discombobulate any witness schedules, would make the
13 most sense.

14 CHAIRMAN FARRAR: All right. That's fine
15 with us. Let's pencil that in.

16 MR. VOLLMANN: This is Tim Vollmann.

17 CHAIRMAN FARRAR: Yes?

18 MR. VOLLMANN: To the extent that we can
19 nail down a date for the site tour, that would
20 certainly be helpful to the Skull Valley Band, the
21 reservation is, just a few people live there and some
22 advance notice for them would be appreciated.

23 CHAIRMAN FARRAR: Yes, we can try to do
24 that today, depending on what people tell me about the
25 witnesses, but certainly if not today, very soon.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Your people would be the hosts in a sense.

2 Mr. Turk, refresh me on your first
3 comment?

4 MR. TURK: The need for long opening
5 statements?

6 CHAIRMAN FARRAR: Right. But then you
7 said something else.

8 MR. TURK: My feeling is that if we cut it
9 back a little bit we could start at ten that morning.

10 CHAIRMAN FARRAR: No, there was another --

11 MR. TURK: And the second point was when
12 to go for the site tour. But I do have a third that
13 I have not mentioned yet.

14 CHAIRMAN FARRAR: Okay.

15 MR. TURK: I understand that on April 9
16 because we're starting so late with the actual
17 testimony, there's a need to run longer so we get more
18 accomplished. But, at the same time, the next morning
19 we'd be starting in a different location. So when the
20 hearings close on Tuesday, we have to box up all our
21 things and then go back, have dinner, go to sleep and
22 wake up for a start the next morning.

23 As much as I'm interested in supporting
24 the schedule of a late closing on Tuesday, I think we
25 have to take into account the need to talk to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 witnesses and pack up boxes and then move over to the
2 capitol building the next morning.

3 CHAIRMAN FARRAR: Okay. That's a good
4 point. We had anticipated that. I hadn't mentioned
5 it but we'd anticipated starting later on Wednesday
6 than on the other days, but your point may also argue
7 for quitting a little sooner. Maybe we're talking
8 3:30 to seven.

9 MR. TURK: I think that would be an
10 improvement.

11 CHAIRMAN FARRAR: Three-thirty to seven on
12 Tuesday and maybe not start till 10:30 on Wednesday
13 and then Thursday, Friday and Saturday, if needed,
14 we'd start at nine o'clock. Okay?

15 There was someone, was there anyone whose
16 views I didn't ask on the general, Mr. Echohawk did I
17 ask you?

18 PAUL ECHOHAWK: No, that schedule sounds
19 fine though, your Honor.

20 CHAIRMAN FARRAR: Okay.

21 MS. CHANCELLOR: Your Honor, if I may,
22 apparently Mr. Echohawk spoke with Ms. Walker and she
23 won't be on the call but we'll represent her interest.

24 CHAIRMAN FARRAR: Okay. If you pass this
25 on to her. That leave us, other than some details of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 scheduling, two points. What we do the first day and
2 I'll address Mr. Turk's suggestions when we get to
3 that. But have you all come up with any thoughts on
4 which days you want to hear the environmental issues
5 in those weeks of the 15th and 22nd?

6 MR. TURK: We have not spoken with each
7 other about that yet, your Honor.

8 MS. CHANCELLOR: Your Honor, I can let you
9 -- Denise Chancellor for the State, I can let you
10 know that the witness on hydrology contention is
11 unavailable the 17th through the 19th, so it's not
12 very likely that that one would go to hearing the
13 first week. And we are discussing settlement of our
14 other environmental contention, but we haven't made --

15 CHAIRMAN FARRAR: Well in that case,
16 Denise, maybe we OGDO on the 15th and 16th or until
17 finished, and then do the site tour after that. I'm
18 sorry, Utah O.

19 MS. CHANCELLOR: It's confusing.

20 CHAIRMAN FARRAR: On the 15th and then --
21 the issue you're talking about settling is?

22 MR. SILBERG: DD on the peregrine falcon.

23 CHAIRMAN FARRAR: All right.

24 MR. SILBERG: But if we have a witness
25 problem later in that week, I mean my primary interest

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 in the site tour I think is its usefulness in the
2 context of SUWA B. I think it's less so for OGDO and
3 Utah O.

4 ADMINISTRATIVE JUDGE LAM: Judge Farrar I
5 agree. Judge Kline and I had seen the site about five
6 years ago. Judge Farrar is the only one who has not
7 seen the site, so the new proposed site tour as
8 scheduled I think is certainly agreeable with me.
9 Okay?

10 CHAIRMAN FARRAR: Well, it looks like then
11 let's plan on the site tour the 15th, Monday the 15th,
12 push the hydrology to the next week, use the 16th, and
13 then we'll leave it to the parties to decide when you
14 want the SUWA B railroad line issue and then OGDO
15 would get the, you can juggle those two issues and
16 we'll just await word from you on that, although by
17 the time we put out the Federal Register notice and
18 press people do press releases, we'll want to know
19 pretty much what the days are.

20 MS. CHANCELLOR: Your Honor, with respect
21 to publicity of the hearings, are you going to discuss
22 that during the call?

23 CHAIRMAN FARRAR: Yes, but let's take that
24 up now. What we would do officially here is there'll
25 be a Federal Register notice which I envision might be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 more detailed. I mean I'm assuming once you finish
2 with the games there's going to be with all the news
3 about Yucca Mountain recently, there's going to be
4 heightened interest in this proceeding. So we want to
5 do a more detailed Federal Register notice making
6 sure, you know, which would end up being on our web
7 site also, that the public knows exactly what's
8 happening, when for those who want to attend, we would
9 also, then our press people would do a press release
10 embodying that material and also having contact
11 numbers.

12 We are going to try to set up our web site
13 so that when we change a hearing time, if we decide on
14 Thursday in the state capitol we need to start at
15 seven in the morning on Friday, we'll get somebody
16 back here to push that up on the web site, and by then
17 hope that we have good enough relations with the press
18 out there that they might carry that news as a public
19 service.

20 Ms. Chancellor, given that information
21 tell me what was behind your question?

22 MS. CHANCELLOR: I think last time that
23 you were out here we suggested public service
24 announcements on the radio, some of the NPR stations,
25 local NPR stations I think and other stations have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 public service announcements. That's maybe something
2 the press people want to look into.

3 CHAIRMAN FARRAR: We had a long, not to
4 tell you about our internal business but we had a long
5 session with them yesterday starting to map this kind
6 of thing out, so I will definitely pass your
7 suggestion along to them.

8 That sort of gets into that first day on
9 the 8th. It seems to me, even though we came to the
10 contrary conclusion during the video conference, the
11 fact that there's a chance of a great deal of public
12 interest in this, argues for longer rather than
13 shorter opening statements.

14 I don't think we, the Board, will need
15 them to understand the case but I think that's the day
16 when you have the largest attendance, where you're
17 likely to have the most people from the press, and it
18 seems to me it's more important than perhaps we
19 thought at the video conference to have long
20 statements where you all get a chance to say who you
21 are and why you're there and what you hope to
22 accomplish ordinarily in your business, and what you
23 hope to accomplish through this proceeding. And we
24 would want to add something in there.

25 So, Mr. Turk, that's why we envisioned the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 longer rather than the shorter opening statements, so
2 that that frames the issue and particularly for those
3 who are there to make limited appearances, they would
4 know what this is and, perhaps more important, what
5 this isn't.

6 I know you've had meetings out there on
7 the environmental impact statements which are more a
8 public forum kind of thing. I think we need to
9 explain to the people this is a judicial proceedings.
10 We decide things based on the evidence and on the
11 arguments of the lawyers, and make sure everybody
12 understands that.

13 A lot of this proceeding has been
14 conducted on documents and has been below the public
15 radar screen, so we think it's important to start off
16 with decent, with thorough opening statements.

17 Having said that, let me ask you, Jack,
18 what's the capacity of that room?

19 MR. WHETSTINE: For the public it would be
20 around 140 people, 150 people.

21 CHAIRMAN FARRAR: I see. Now two things
22 about that, we tried and you tried to get bigger space
23 and we can't get any. Let me ask you, I see four
24 possible constituencies of people coming to this
25 event. One would be those associated with the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 parties, each of you has had a lot of people,
2 technical and other support people coming and some of
3 them may want to see the fruits of their labors, the
4 several years of effort you've put into it.

5 The citizens of the area, I guess there
6 are two categories, those who would be strongly pro
7 and strongly anti the project, and those who might
8 say, well, I didn't get to the Olympics but this is
9 quite a proceeding to see. It's important. There will
10 be people, whether they're retired or have some time
11 on their hands or take a day off from work, saying,
12 boy, this is a one time thing, I want to come see
13 this.

14 Then I think you would have the local or
15 national interest groups, you know, who see this as a
16 major step in their endeavors, pro or against, and who
17 might turn out in force. You know, for those of you
18 who have a lot of experience in this, the crowds
19 diminish dramatically usually from day to day, but
20 we're concerned about that first day. Jack, you said
21 140?

22 MR. WHETSTINE: One hundred and forty.

23 CHAIRMAN FARRAR: Does that give anybody
24 serious heartburn that we only can hold 140 people for
25 the morning session and, if it does, what do you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 suggest we do about it? Ms. Chancellor, it's your
2 backyard.

3 MS. CHANCELLOR: Unfortunately, your
4 Honor.

5 CHAIRMAN FARRAR: Wait a minute. Jack,
6 that 140 does that count the second room?

7 MR. WHETSTINE: No, we have a reception
8 area that leads into the hearing area that would hold,
9 that will probably hold 30 or 40 people. That will
10 be an area that will have security processing people
11 coming in.

12 CHAIRMAN FARRAR: But the good news about
13 that is you have a 140 in what I'll call the
14 courtroom, then there's some narrow doors leading to
15 another room where you can seat another 40. We will
16 have sound in there but not all of them will have --
17 most of them will not have visual sightlines to the
18 witnesses.

19 So let me amend that and say we can take
20 180. Then with limited appearances, I suppose you can
21 get it more crowded because you can use whatever the
22 fire marshal will let us do. You can have people
23 standing whereas people would pretty much be seated in
24 the morning.

25 Ms. Chancellor, go ahead with what you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 were going to say.

2 MS. CHANCELLOR: Yes, your Honor. With
3 the SES or EIS hearings the rooms were way too small
4 and this sounds like it will be adequate.

5 MR. SILBERG: Your Honor, we have a little
6 experience I'd like to mention to you about some other
7 meetings we've had. If I may I think Mark Delligatti
8 can address his experience at some recent meetings.

9 MR. DELLIGATTI: Yes, your Honor, at the
10 meetings on EIS, the public comments on EIS, we had a
11 set up that sounds very similar to this, and I may be
12 wrong, Denise, but it even sounds like we probably
13 have the exact same room. And, as you may recall,
14 they were considered to be much too small and we got
15 a lot of complaints from the public, particularly from
16 the people who were in the ante-room or in that second
17 room and who could not see directly what was going on
18 and felt that they were somehow being cut off from the
19 proceedings.

20 If that's the best space that's available
21 I understand, but I do want to let you know that we
22 had a very large turnout for the EIS public comments
23 meetings and a set up like that with the two rooms, we
24 did not find that to be the most accommodating to the
25 public.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. SILBERG: Is there a way to have, in
2 addition to the sound, to have some closed circuit
3 television so people can see what's going on in the
4 second room? I think that would have taken away a lot
5 of the complaints from that meeting that you were
6 talking --

7 I don't think you had closed circuit
8 television. I think you had the sound in there.

9 MR. DELLIGATTI: We did have closed
10 circuit TV in there actually.

11 MS. CHANCELLOR: Yes, you did, Mark.

12 MR. TURK: Incidentally, Mr. Delligatti
13 tells me that there were approximately 200 people at
14 that meeting.

15 MR. SILBERG: Yes, it was crowded.

16 MR. TURK: I should point out also your
17 Honor, that in the past when we've had limited
18 appearances --

19 CHAIRMAN FARRAR: Well, let me ask. Mr.
20 Reporter, are you able to follow all these voices?

21 COURT REPORTER: If everyone could say
22 their name when they speak, that would make it a lot
23 easier.

24 CHAIRMAN FARRAR: And particularly Mr.
25 Turk, for some reason, you sound very much like Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Gaukler. My brain goes off in the wrong direction.
2 So let's introduce ourselves.

3 MR. TURK: This is Sherwin Turk. I was
4 saying that Mark Delligatti tells me there were
5 approximately 200 people at the EIS meeting. And I
6 want to mention one other thing. In the past, the
7 state has brought many of its employees to these
8 meetings.

9 MS. CHANCELLOR: Oh I object to that.

10 MR. TURK: No, they're coming. Many, many
11 of the people who made limited appearances the last
12 time were state employees. So in addition to the
13 members of the public, we can expect a large turnout
14 from state employees.

15 MS. CHANCELLOR: That's unfair because a
16 lot of those people were public citizens and if your
17 suggestion is that we're stacking the hearings, I
18 object to that.

19 MR. TURK: I'm not suggesting that at all,
20 Denise. I'm saying that the number of people that we
21 can expect is not just members of the public but also
22 the state employees, which tends to give you a larger
23 number of people.

24 CHAIRMAN FARRAR: Let me interrupt this
25 family feud, we've all gotten along so well, and to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 say I didn't take it as a suggestion stacking the
2 hearing. In fact, we talked about but rejected. I
3 won't say whose idea it was, in our own little group
4 and whose it wasn't, but we talked about whether we
5 would want to ask the parties, the staff, just for
6 that morning session, the staff, the company and the
7 state to ask their employees not to come if we had a
8 huge crush of, and let me call them and I don't mean
9 this in a derogatory fashion, just ordinary citizens
10 who wanted to come.

11 It's kind of like when I worked for the
12 trade association and we had a reception, the rule was
13 staff hold back, and after the CEOs had their hors
14 d'oeuvres and then if there were any left we could
15 have them. But we rejected that idea as too difficult
16 to implement. But I took, Mr. Turk, your suggestion
17 in that spirit that to make space available for the
18 public, we could ask the parties to have their people
19 hold back.

20 But Ms. Chancellor has a strong, Ms.
21 Chancellor do you have a strong objection if we're
22 talking about everybody doing that? In other words,
23 I'm sure the company has a lot of consultants and
24 technical people who've worked a long time on this who
25 would like to be there to see the grand opening.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. CHANCELLOR: Your Honor, what I want
2 to say is we're doing whatever we can to allow as many
3 representatives of the public to be there as possible.
4 And we'd be amenable to having state employees, to the
5 extent that any are interested, in not coming the
6 first day.

7 MR. TURK: Your Honor, I want to point
8 out, I'm not suggesting that the state tells people
9 not to come. In fact, they have more reason to come
10 than do staff or applicant personnel. I will suggest
11 to the staff that, with the exception of a small
12 group, maybe the project manager and one or two
13 attorneys, I would suggest to the staff that they do
14 not come to the public session because it will be
15 crowded and we need the seats.

16 And I would think that the applicant can
17 do the same. I'm not making those suggestions for the
18 state because I think they have a valid interest in
19 being there. It may be that we can ask the state to
20 ask its people who are not making statements to sit in
21 the second room rather than the main room.

22 MS. CHANCELLOR: I believe that the state
23 is not entitled to make statements during the limited
24 appearance session because it is a party and we
25 haven't planned on doing it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN FARRAR: I am glad to hear that
2 because we had talked about that, that the state is a
3 party.

4 Mr. Silberg, Mr. Gaukler, can you
5 contribute to the cause by having some of your
6 consultants not take a seat unless there are seats
7 available?

8 MR. SILBERG: Certainly.

9 CHAIRMAN FARRAR: Okay. Then Ms.
10 Chancellor, if the staff and the company are willing
11 to do that, I'll leave it to your good offices to give
12 the instructions that you think proper to the state
13 employees in order to make as many seats available as
14 we can.

15 But now Mr. Silberg mentioned the closed
16 circuit TV. We could, sound is obviously easier to do
17 than the TV. Once you get into TV, if you're going to
18 do it, I suppose you can also, we can try to find a
19 room in another hotel and put in the Federal Register
20 notice.

21 MR. WHETSTINE: Well, I would think that
22 that would not be as good as just having the adjoining
23 rooms, but having it so that they could see what's
24 going on. I frankly didn't recall that there was
25 closed circuit television at the EIS meetings, but I'm

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 sure you're correct in that recollection, Mark.

2 CHAIRMAN FARRAR: Okay. We will check out.
3 whether we can do that.

4 But, now, here's the fear I have. That we
5 can seat 180 and if we get 200, people may understand.
6 If we get 500 or a thousand, is there anyone who will
7 assure me we won't get 500 or a thousand? I mean my
8 sense is this could be a major --

9 MR. SILBERG: Jero had talked about in an
10 earlier conversation about mobilizing, because you
11 wanted advance notice so they could mobilize their
12 friends. And I, frankly, don't know whether that
13 means 50 people or 150 people or 150,000 people.

14 I guess we can ask Jero what she knows and
15 maybe Mark can tell us, you know, what they know in
16 terms of numbers. It just may be too early, I don't
17 think anybody knows right now.

18 CHAIRMAN FARRAR: I guess my fallback
19 would be if we get instructions that there would be,
20 let me use you know the word huge, a huge crowd, that
21 we would try to get a room somewhere else in the city.
22 I would like to put this, if we're going to do that,
23 I'd like to put that in the Federal Register notice
24 that says if you don't want to take a chance on not
25 getting a seat at the actual hearing room, there will

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 be a room at a hotel three blocks away and there will
2 be ample seating there. And so if you want to assure
3 yourself of a seat you can go there.

4 If nobody goes there then we're fine,
5 except my security people are frowning at me because
6 they'd have to staff that room.

7 MR. SILBERG: Another possibility, Judge,
8 is that you could ask in the Federal Register notice,
9 which hopefully would be picked up in the newspaper
10 articles that people, because typically people asked
11 to write in that they would like to be given an
12 opportunity to make limited appearance statements, and
13 urge people to do that so that the Board will have a
14 sense as to how many people are likely to turn up.

15 And I'll also remind them that there will
16 be at least two different sessions so that not
17 everyone has to come in the afternoon session or the
18 evening session, and that there will be the sessions
19 in Tooele, and maybe encourage people to you know tell
20 you which session they like to attend. And that way
21 you may get some advance notice as to how many people
22 are planning to come, and if you allow them to respond
23 by e-mail as well as postcards and letters, then maybe
24 you'll get a sense as to whether we're talking about,
25 you know, a few tens or a few hundreds or a few

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 thousands.

2 CHAIRMAN FARRAR: Mr. Silberg, that's a
3 good suggestion. We were going to ask people to pre-
4 register for the limited appearances, and I appreciate
5 that how many of those you get can be an indicator of
6 the overall crowd.

7 My concern, not concern, in a sense we'd
8 be delighted, but it's rather, I guess it's like the
9 business complaining they have too many customers. I
10 envision a lot of people coming just because they're
11 interested in the proceeding as citizens who want to
12 see how government works and what this is all about,
13 who may not want to make a limited appearance
14 statement. But in a city the size of Salt Lake, isn't
15 it possible there are 300 people who would come just
16 to watch?

17 MR. SILVERBERG: I don't think that that's
18 typically been the experience, but it may well be the
19 case. I just don't know.

20 CHAIRMAN FARRAR: Ms. Chancellor, any idea
21 on that?

22 MS. CHANCELLOR: Well, it's nine o'clock
23 in the morning and so I think you would get less
24 people first thing in the morning than you would, say,
25 if it was late in the afternoon or in the evening.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 And I remember last time that people pre-
2 registered with Judge Bork. If you got a lot of
3 people pre-registering, would it be possible to fit in
4 another limited appearance session during the week of
5 the 11th, the 8th, 15th and 22nd because I don't think
6 we use all that time that we have for what we need to
7 do.

8 MR. SILVERBEG: Or, alternatively, find a
9 much larger room. But that may not give you enough
10 time to (a) find it and then (b) tell the world about
11 it. It may well be that your suggestion of another
12 day on one of the environmental weeks is something
13 that's worth thinking about.

14 CHAIRMAN FARRAR: All right. We certainly
15 can do that and that takes care of the limited
16 appearance statements.

17 Here's my concern. At five minutes to
18 nine on Monday morning, even though people are willing
19 to make their limited appearance at another time, we
20 have you know 300 limited appearance people and 200
21 just citizens who wanted to see this proceeding, all
22 trying to get in there. And people in Salt Lake City
23 are probably better behaved than people in Washington
24 and New York but, you know, there's a problem there.
25 And I'm concerned about how --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. SILBERG: Well, unless the NRC wants
2 to you know reserve a ballroom for that first day.

3 CHAIRMAN FARRAR: We can't get a bigger,
4 that's our problem. As hard as you all and we have
5 tried, we don't have a bigger ballroom.

6 Let me talk to my people here off the
7 record, we'll come back.

8 (Whereupon, the foregoing matter
9 went off

10 the record at 10:42 a.m. and
11 went back on

12 the record at 10:42 a.m.)

13 CHAIRMAN FARRAR: Ms. Chancellor, Jack has
14 reminded me that the state has an EdNet system or
15 something that gets to schools and other places, could
16 we tap into that?

17 MS. CHANCELLOR: We will try and find a
18 contact for Jack and see if that's possible. I just
19 don't know, offhand I just don't know who organizes
20 that system. Do you, Connie? EdNet? I don't know if
21 it's --

22 MR. WHETSTINE: Denise, this is Jack
23 Whetstine. I think that's part of the Eco Center.
24 When I was out there they were demonstrating it and
25 they were connecting all the high schools and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 universities, educational networks.

2 MS. CHANCELLOR: I had thought about a
3 television classroom setup. You probably have the
4 contact easier available than we do.

5 MR. WHETSTINE: I do. I will make that
6 phone call.

7 MS. CHANCELLOR: If you need us to do
8 anything, just let us know.

9 MR. TURK: Your Honor, this is Sherwin
10 Turk. May I ask Ms. Chancellor if there's any state
11 facility that might be available?

12 MS. CHANCELLOR: We'll be in touch with
13 Jack Whetstine and let him know of all state
14 facilities. I mean we can look some more and see if
15 there's anything else nearby, but at five to nine it's
16 going to be difficult to you know get the troops to
17 wherever it is you want them to go.

18 CHAIRMAN FARRAR: Let me throw in
19 something my people have mentioned which may be off
20 the wall. That time of year you're going to have a
21 huge modern, huge facility somewhere not too far from
22 town that was set up for the Olympics. Is there any -
23 - are you all close enough to that to know whether
24 there would be any kind of --

25 MS. CHANCELLOR: We're giggling because

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I'm sure you don't mean the bobsled run.

2 CHAIRMAN FARRAR: By the time we're
3 finished you all may want to send me down that, or
4 vice versa. But, you know, knowing that they're going
5 to have the world's most modern communications
6 equipment, a secure location, we could either try to
7 use that place up there as a room or we could think of
8 even moving the entire first day up there.

9 MS. CHANCELLOR: Jack, have you been in
10 touch with the Salt Palace? I mean they have huge
11 rooms there. That would be the --

12 MR. WHETSTINE: I have and they didn't
13 have any space available at the Salt Palace. That is
14 a big convention center.

15 I can go back to them for the, I guess the
16 critical day is the 8th, I could go back to them
17 again.

18 CHAIRMAN FARRAR: After the athletes
19 leave, who owns the Olympic space?

20 MS. CHANCELLOR: It depends which space
21 you're talking about. There are various venues but in
22 terms of actually large indoor space, the main
23 communications center is the Salt Palace and there
24 aren't a lot of huge indoor arenas, other than in like
25 sports stadiums, but those are kind of where they play

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 basketball. There's ice skating rinks way out on the
2 west side of town.

3 There's a whole bunch of tents all over
4 the city.

5 MS. NAKAHARA: This is Connie Nakahara.
6 That's basically how the Olympics are handling the
7 masses of people and their meetings, they're putting
8 up huge tents, so that won't help the hearing.

9 CHAIRMAN FARRAR: Let's do this. Let's
10 explore some of these things. We will put in our
11 Federal Register notice, which won't be going out I
12 would think for a couple of weeks, we will put in it
13 that some of these days are subject to change. And
14 following up on Mr. Silberg's suggestion, if we get,
15 you know, we might use the limited appearance pre-
16 registrations as a gauge of how many people we're
17 likely to get. Some multiplication factor, and we'll
18 see about moving that first day.

19 MR. VOLLMANN: Judge, this is Tim
20 Vollmann. I have a related questions.

21 CHAIRMAN FARRAR: Yes, sir?

22 MR. VOLLMANN: Will the site tour be open
23 to the public and, if so, I guess I'd like to express
24 concern about the security issues for such a site tour
25 which, of course, are very different from a hearing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 room.

2 CHAIRMAN FARRAR: Until you asked the
3 question I had assumed it would be closed, that it
4 would be just the parties and their counsel and that,
5 in fact, since part of it is the band's reservation we
6 need to respect their rights there and we would just
7 bring us and not have it open to the public, although
8 I assume that any one member of the band, even if
9 they're not living on the reservation, would be
10 welcome to attend.

11 But other than members of the band, I
12 thought it would just be us.

13 MR. VOLLMANN: Thank you, that answers my
14 question.

15 CHAIRMAN FARRAR: And I take it that's
16 what you would want?

17 MR. VOLLMANN: Yes.

18 CHAIRMAN FARRAR: Okay.

19 MS. CHANCELLOR: Your Honor, were you
20 thinking about a bus, like last time we had this bus
21 that everybody, because we couldn't decide who should
22 travel with whom?

23 CHAIRMAN FARRAR: No. What I was thinking
24 was we would all form up in private cars, you know, at
25 a hotel somewhere. That way nobody has to worry

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 about, you know, who's talking to the three of us
2 because we'd only be talking to each other. And then
3 you'd meet at some checkpoint short of the transfer
4 facility and then proceed over there in a caravan,
5 then proceed in a caravan to the reservation.

6 Did you like the bus?

7 MS. CHANCELLOR: Yes, it was great because
8 you could point out things as you drove along. You
9 didn't have to wait until you amassed at a various
10 point. And we had a representative from each party
11 could sit up front near the judges and point out
12 various things that were of interest, so that they
13 could get an idea of the facilities and activities on
14 the --

15 CHAIRMAN FARRAR: What do the other
16 parties think about that?

17 MR. SILBERG: Well, there are two issues.
18 One, you know, I think it most helpful to have
19 everybody to be able to point out things. With
20 respect to the Suwa B issues, though, I think we need
21 at least to give some thought to the logistics because
22 I don't know whether the bus will be able to get over,
23 you know, the jeep roads or the dirt tracks to get out
24 into the area of the rail spur, the rail line, so that
25 the parties and the Board can see the precise areas

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that we're talking about.

2 MS. CHANCELLOR: Jay, I don't think even
3 a private vehicle would get down there at that time of
4 the year. You've got that clay and you'll probably
5 get stuck.

6 MR. SILBERG: I don't know, I've got to
7 talk to some folks who know more about it because I
8 sure don't. And you may be right, that it's not
9 possible to get out there. You know, I think you can
10 get out to the area around where the rail line would
11 cut off from the main line.

12 MS. CHANCELLOR: Right. There's an exit
13 off the freeway that's right.

14 MR. SILBERG: Right. But how far in we
15 can get at that time of year, I don't know. And it
16 may be something we wouldn't know because if it's
17 rainy the week before it'd be different than if it's
18 been dry the week before, if there's a lot of snow
19 melted. Whatever. So that may be something we have
20 to play a little bit by ear and I don't know what the
21 best vehicle or vehicles would be to run that, but my
22 proposal would be, you know, let's hang a little loose
23 on that and we can explore what the options are and
24 then tell the Board and the parties.

25 CHAIRMAN FARRAR: All right. That's good

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 with us. Mr. Vollmann, no problem with a bus getting
2 onto the reservation?

3 MR. VOLLMANN: In terms of the soils and
4 whether the bus can get out there I don't know, but no
5 particular problem with the bus, no.

6 MR. SILBERG: Driving down Skull Valley
7 Road to the reservation and where at least the access
8 road would turn off is something that, you know, that
9 any vehicle can do. How far off Skull Valley Road you
10 can get towards the area, the site, I just don't know.

11 MR. TURK: Your Honor, this is Sherwin
12 Turk. Our experience in the past has been you need
13 a four wheel drive to go onto the site itself.
14 Because there is no road leading to it, you're
15 basically crossing over the native desert there.

16 MR. SILBERG: I think the issue really is
17 more to get towards the area of the rail line rather
18 than the site itself, because I don't think being on
19 the site itself is --

20 CHAIRMAN FARRAR: Let's leave this open.

21 MS. CHANCELLOR: Do you want us to get
22 suggestions to Jack Whetstine?

23 CHAIRMAN FARRAR: Yes, please. And do I
24 want to put in this Federal Register notice that we'll
25 be taking a tour not open to the public on Monday? Or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 do I want to not say anything?

2 MR. SILBERG: I wouldn't say anything
3 about it. That's really for the Board and the parties
4 rather than the public.

5 MR. TURK: I would agree with that, your
6 Honor. Sherwin Turk.

7 CHAIRMAN FARRAR: I think that takes care
8 of most of our agenda. Then you're going to get
9 suggestions to Jack on the logistics of the tour.
10 Jack going to look into the question of video into the
11 anteroom and also if we do that video in another room
12 in some other hotel, we'll work that internally.

13 We will watch for the registrations to try
14 to get an idea of the crowd, and you all will work,
15 will let us know about the settlement of the peregrine
16 issue and the timing of your other witnesses. We've
17 changed from pencil to pen on the date of the 15th for
18 the site tour.

19 So those two weeks we begin with the site
20 tour on the 15th, we end with Tooele High School
21 limited appearances on the 26th, so we have eight days
22 in which to do, now it'll be two, three or four
23 issues. Three environmental and environmental
24 justice, but one of the environmental may settle and
25 we'll see if environmental justice needs a hearing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Anything else anyone wants to offer?

2 MR. TURK: Your Honor, just one last
3 thought. If OGDO is not accepted, or if it's
4 dismissed at this point, I don't see that we'd need
5 that whole two weeks for the environmental contentions
6 and I guess I would suggest that we leave open the
7 door that only one of those two weeks we'd be out
8 there. But I guess we'll wait to see whether there's
9 a need for that hearing space or not during that week.

10 CHAIRMAN FARRAR: I can't give you more
11 guidance than I have right now, but you're right. I
12 suppose one thing we might do if environmental justice
13 does not end up going to a hearing and if the
14 peregrine falcon settles and given that the hydrology
15 witnesses are not available on the 17th to 19th, you
16 could end up with a very long weekend, which even
17 though that would come after only a week and a half of
18 hearings, we may need it to get ready for the seismic
19 endeavors that will --

20 MR. SILBERG: We also probably could use
21 some discussions amongst the parties to see whether it
22 would be possible, whether we think it's realistic
23 that we could do Utah O in a day. I just don't know.
24 I think there's a shot at it, particularly if we went
25 a little later.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN FARRAR: Of the hydrology?

2 MR. SILBERG: Yes.

3 CHAIRMAN FARRAR: Okay. Is that amenable
4 to settlement? Are there things --

5 MR. SILBERG: I have asked the state that
6 same question.

7 MS. CHANCELLOR: I don't believe you have,
8 Jay, but we're always willing to talk.

9 CHAIRMAN FARRAR: Yes, I mean that --

10 MR. SILBERG: I think what we want to do
11 is try to get DD and, you know, if we can reach
12 agreement on DD then we'll see if there are others.
13 But, you know, I did mention at least that we'd be
14 willing to talk about others.

15 CHAIRMAN FARRAR: And being careful not to
16 pre-judge anything I assume from my past experience on
17 the Appeal Board that some issues are amenable to
18 settlement by adding some sort of upgrade to the
19 facility, whatever that means.

20 MR. SILBERG: Right.

21 CHAIRMAN FARRAR: And so I would encourage
22 you all to discuss that, but if that doesn't work
23 we're happy to hear that. So we may end up with, I
24 would say then we will try to shoot to give the
25 parties a very long weekend, that weekend of the 20th

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 and 21st, if you want to doing your planning to work
2 that in, you know, the frontload, you know the 16th
3 and 17th, and the backload the 24th and 25th, and
4 carve yourselves out a long weekend, we could
5 certainly use the time, getting back to my theme about
6 us being prepared. We would certainly not object to
7 having extra time to study the seismic testimony
8 before we get into that. Okay?

9 MS. HARBAUGH: This is Cindy Harbaugh
10 representing NRC security, and I of course will be
11 coordinating with the local law enforcement community
12 and providing security support for these meetings and
13 proceedings which, of course, our primary goal is the
14 protection of all concerned.

15 Given the events of September 11th, of
16 course we as a government in general are dealing with
17 a heightened level of security, plus this is a federal
18 court proceeding type of situation. So I wanted all
19 parties concerned to be advised that we would
20 anticipate using metal detection and package
21 inspections going into all of these proceedings and
22 meetings. And that appropriate security measures
23 would be in place for the protection of all.

24 CHAIRMAN FARRAR: Ms. Chancellor, let me
25 follow up in the statement there and we spent a lot of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 time working with her on this, and we have a great
2 deal of confidence in what she brings to the task.
3 How would the citizens of Utah respond to a no
4 packages edict?

5 MR. SILBERG: That may be difficult for
6 the lawyers to live with.

7 MS. HARBAUGH: The notice that I would
8 probably like to put forth is that in the interest if
9 properly permitting access into the meetings site, the
10 attendees are requested to refrain from bringing any
11 unnecessary hand carried items, i.e. briefcases,
12 backpacks, etc.

13 Now as far as the parties are concerned, we will work
14 with you on that count. But I'm looking more in terms
15 of the public.

16 CHAIRMAN FARRAR: Yes, unlike the poor
17 airline people, I think we're entitled to distinguish
18 between you all and the crowds. That's not the
19 concern. Again, my concern is if you have a huge
20 crowd, if people bring packages and backpacks, then
21 they have to be opened and inspected and so forth and
22 this gets people --

23 MS. HARBAUGH: It will slow down.

24 CHAIRMAN FARRAR: You know, people come at
25 8:45 trying to get into a nine o'clock hearing and at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 ten o'clock they're still outside having their
2 packages inspected.. So we were contemplating the
3 notion of --

4 MS. HARBAUGH: Requesting at least.

5 CHAIRMAN FARRAR: Well, you can see a
6 little debate here. Ms. Chancellor, I suppose in our
7 favor we're coming off the Olympics where people know
8 that, you know, here are the rules and you follow them
9 or you don't get in. Would they be offended just
10 qualitatively with very strict security for something
11 like this?

12 MS. NAKAHARA: Your Honor, this is Connie
13 Nakahara. As everybody across the country is facing
14 more stringent security checks, I don't think their
15 citizens would have a problem. My suggestion is
16 especially that you ask the press to notify the public
17 that there will be security checks. There were a lot
18 of unhappy citizens at the EIS hearings because they
19 got their signs, their signs were taken away, some
20 were forced off the property because they objected to
21 their signs being ripped up, and they were very
22 unhappy. But if they know the rules up front, I don't
23 think they would object.

24 CHAIRMAN FARRAR: Ms. Nakahara, that's
25 exactly how I have -- I appreciate your thought

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 because that's exactly how I try to approach this,
2 that anything's fair as long as you tell the people
3 ahead of time here's what it's going to be and it's
4 not fair not to tell people the rules. They get there
5 assuming one thing and they're told something else.
6 I wholeheartedly agree with what you just said, which
7 is part of the reason I said the Federal Register
8 notice might be longer than normal because we want to
9 make sure everybody understands what the ground rules
10 are so that our security people and other folks can
11 say to them, look, I'm sorry we told you this and here
12 it is, rather than make up the rules the morning of
13 the hearing.

14 MS. HARBAUGH: We have the regular template
15 of our Federal Register notice, it's been longstanding
16 as far as what's permitted into our meeting rooms and
17 our proceedings, which we will continue to use, and
18 were in place actually for that EIS meeting.
19 Unfortunately, the hotel decided to exercise some
20 other approaches to that, and we'll coordinate more
21 closely with them on that this time around.

22 CHAIRMAN FARRAR: In terms of press
23 coverage, we do plan to have a press table for the pen
24 and pencil people and to allow, if anyone's
25 interested, stationary cameras but no moving cameras

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 in the room to avoid any disruption.

2 MR. SILBERG: I assume you would allow
3 moving cameras before a hearing starts and during
4 breaks and stuff like that, which has usually been the
5 case.

6 CHAIRMAN FARRAR: Yes. One of my
7 colleagues mentioned to me, Mr. Silberg, that they
8 when they're in the back of the room they never get
9 any shots of you all, except the back of your heads.
10 We plan to arrange the witness area so that, you know,
11 the cameras would have a shot at that. But I would
12 have no objection before the hearing to them coming
13 behind the bench and taking shots of you all at your
14 counsel tables, that they could then use.

15 But we intend largely to run this like a
16 courtroom, that there will be a bar and only you and
17 we get inside the bar after the proceeding starts.

18 MR. SILBERG: Okay.

19 MR. VOLLMANN: Your Honor, this is Tim
20 Vollmann. I'm going to have to excuse myself.

21 CHAIRMAN FARRAR: Okay. I think we'll be
22 finished in a couple of minutes. Mr. Vollmann, go
23 ahead, thank you for joining us.

24 MR. VOLLMANN: Thank you.

25 CHAIRMAN FARRAR: Anything else we need to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 cover? All right, then we will work on the things we
2 talked about. We will continue our efforts to do the
3 OGDO decision and then after that do the Federal
4 Register notice. Probably do a Federal Register
5 notice and a pre-hearing order which would summarize
6 or list the steps we agreed on, both at the video
7 conference and in this conference.

8 MS. CHANCELLOR: Your Honor, I have just
9 one quick thing. I assume that we should follow
10 previous procedural orders which were set to marking
11 exhibits and number of copies and that sort of thing,
12 that Judge Bulwark's earlier orders are still in
13 effect?

14 CHAIRMAN FARRAR: Yes, unless you come up,
15 if you all agree on a scheme that you think is better
16 and/or more efficient, we'd be open to that. And I
17 can't speak from experience here, but if that worked
18 fine for you last time, we're happy to have you do the
19 same thing.

20 MR. SILBERG: Connie? I'm sorry, Denise.
21 Could you refresh our recollections as how the
22 exhibits were numbered? Were they sequential from
23 zero for all parties, or did we each have our own?
24 I've forgotten.

25 MS. CHANCELLOR: I sent Paul an e-mail on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the stated numbers, PFS letters, one letter, and the
2 staff two letters. So the staff would be, I think it
3 was NRC DD, for example, and PFS A of Utah 1.

4 MR. SILBERG: That may not work if we go
5 over 26 though.

6 MR. TURK: And I don't recall, this is
7 Sherwin Turk, and I don't recall the staff was double
8 letter, I thought we were a single letter.

9 MS. CHANCELLOR: Well, Sherwin, you
10 didn't follow the order. We noticed that. I'll send
11 you a notice for the order and we can talk about it.

12 MR. TURK: But that would be a problem if
13 anyone goes more than 26 exhibits total. But also I'd
14 like to suggest that we continue with the numbering
15 where we left off in the first round of hearings,
16 because any appeal that refers to exhibit number
17 could be confused as to where an exhibit, where two
18 exhibits have the same number.

19 MR. SILBERG: Why don't we see if we can
20 work this all out and we'll inform the Board of our
21 recommendation.

22 CHAIRMAN FARRAR: Okay. But I think that
23 last point is a valid one. You know while I look at
24 this particular part of the proceeding, some day there
25 will be a grand appeal on the entire thing and that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 would be confusing. One thought that --

2 MR. SILBERG: Unless we go to a two dash
3 for the second phase or something like that.

4 CHAIRMAN FARRAR: As long as you're
5 distinguished and as long as I don't end up with Mr.
6 Turk filing DDDD, maybe I can go -- Go through it once
7 and then it's, you know, DD2 and DD3 the third time
8 you go through the alphabet.

9 MR. SILBERG: We will work something out
10 and get it to the Board.

11 CHAIRMAN FARRAR: Yes, I mean you all know
12 as well as I do what we need for appeal and for our
13 future record.

14 All right, well thank you for all the
15 thoughts and again thank you notwithstanding Ms.
16 Chancellor's chiding Mr. Turk there at the end, thank
17 you all for the cooperative spirit that you've brought
18 to this and made it a pleasure to try to pull it
19 together.

20 MR. SILBERG: Thank you, Judge.

21 CHAIRMAN FARRAR: Thank you all.

22 MR. TURK: Thank you.

23 MS. CHANCELLOR: Thank you.

24 (Whereupon, the above-entitled matter went
25 off the record at 11:08 a.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

CERTIFICATE

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

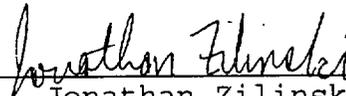
Name of Proceeding: Private Fuel Storage

Docket Number: 72-22-ISFSI

ASLBP Number: 97-732-02-ISFSI

Location: (Telephone Conference)

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.



Jonathan Zilinski
Official Reporter
Neal R. Gross & Co., Inc.