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NUCLEAR REGULATORY COMMISSION

Title: Louisiana Energy Services, L.P.

Docket Number: 70-3103-ML

Location: Prehearing Teleconference

Date: Tuesday, August 3, 2004

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

(ASLB)

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PREHEARING TELECONFERENCE

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In the Matter of:

LOUISIANA ENERGY SERVICES

National Enrichment

Facility

Docket No. 70-3103-ML

Tuesday,
August 3, 2004

The above-entitled matter came on for hearing, pursuant to notice, at 12:45 p.m.

BEFORE:

G. PAUL BOLLWERK, III, Chairperson
PAUL B. ABRAMSON, Administrative Law Judge
CHARLES N. KELBER, Administrative Law Judge

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

12:59 p.m.

1
2
3 CHAIRMAN BOLLWERK: Let's go on the record
4 please. This is Judge Paul Bollwerk, B-O-L-L-W-E-R-K.
5 I'm the Chairman of the Atomic Safety and Licensing
6 Board that has been designated to hear the Louisiana
7 Energy Services case. Someone just buzzed in. Could
8 you identify yourself please?

9 MR. COPPIN: Yes, this is Chris Coppin and
10 Glen Smith with the New Mexico Attorney General's
11 Office. I'm going to try to bring Steve Farris on
12 too.

13 CHAIRMAN BOLLWERK: With me in the room
14 here today are Judges Kelber, K-E-L-B-E-R, and
15 Abramson, A-B-R-A-M-S-O-N as well as our law clerk,
16 Chris Wachter, W-A-C-H-T-E-R and Karen Vollach, V-O-L-
17 L-A-C-H who is the administrative assistant to the
18 Panel. We're here this afternoon to conduct a
19 prehearing conference dealing with discovery and
20 scheduling matters. What I'm going to do is ask the
21 parties to identify themselves for the record and if
22 you would please, spell your last name for the court
23 reporter. Why don't we start with the Applicant,
24 Louisiana Energy Services?

25 MR. CURTISS: Chairman Bollwerk, this is

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1 Jim Curtiss, C-U-R-T-I-S-S and I'm here with Dave
2 Repka, R-E-P-K-A and Martin O'Neil, O'N-E-I-L-L.

3 CHAIRMAN BOLLWERK: Okay. Thank you.
4 Anyone else from LES? You indicated that someone else
5 may be joining us from LES.

6 MR. CURTISS: Mr. Chairman, I thought John
7 Lawrence would be tying in but we can proceed without
8 him. If he does, it's John Lawrence, L-A-W-R-E-N-C-E,
9 but he's not on the phone now as far as I know.

10 CHAIRMAN BOLLWERK: All right. Thank you
11 very much. How about then representatives from the
12 Intervening Parties? Let's start with the New Mexico
13 Attorney General please.

14 MR. COPPIN: Yes, this is Chris Coppin, C-
15 O-P-P-I-N, Glenn Smith, S-M-I-T-H and Steve Farris,
16 did you get on?

17 MR. FARRIS: Yes.

18 MR. COPPIN: And Steve Farris, F-A-R-R-I-
19 S.

20 MR. PATO: And Dave Pato, P-A-T-O. I'm
21 here.

22 MR. COPPIN: Okay, and David Pato, P-A-T-
23 O.

24 CHAIRMAN BOLLWERK: How about then the New
25 Mexico Environment Department?

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1 MR. CLARKE: Mr. Chairman, this is Clay
2 Clarke for the New Mexico Environment Department, C-L-
3 A-R-K-E.

4 CHAIRMAN BOLLWERK: All right. Thank you
5 very much. Then NIRS and Public Citizen.

6 MR. LOVEJOY: This is Lindsay Lovejoy for
7 NIRS and Public Citizens.

8 CHAIRMAN BOLLWERK: All right and also
9 then for the NRC Staff.

10 MS. CLARK: Lisa Clark, C-L-A-R-K, and
11 Angela Coggins, C-O-G-G-I-N-S.

12 CHAIRMAN BOLLWERK: All right. Then I
13 understand that we also have several representatives
14 from NIRS and Public Citizen who are listening into
15 the call. Obviously, Mr. Lovejoy is your counsel.
16 Why don't you go ahead and identify yourselves for the
17 record in any event?

18 MS. BOYD: Michelle Boyd with Public
19 Citizen, B-O-Y-D.

20 MR. MALHEREK: Joseph Malherek with Public
21 Citizens, M-A-L-H-E-R-E-K.

22 CHAIRMAN BOLLWERK: All right. And again
23 we welcome you, listeners on this conference call.
24 Obviously, Mr. Lovejoy is your counsel and he would be
25 the one that would be speaking on your behalf. All

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1 right. The purpose as I indicated before of this
2 prehearing conference is to talk about scheduling and
3 discovery. I should mention by the way if you would
4 please try to remember as you speak, answer questions
5 or have something that you need to address to the
6 Board that if you would try to give your name as you
7 start speaking so the court reporter can know who
8 exactly is involved with the conversation.

9 They get pretty good at picking up voices
10 after a while, but certainly at the beginning is it
11 better for them to know who exactly is, especially
12 with this number of individuals involved, involved.
13 I would appreciate it if you could remember to do
14 that.

15 Let me start off by saying that the Board
16 wants to thank the parties for their efforts in terms
17 of putting together the schedule and the arrangements.
18 (Chimes.) Did someone come in? I'm sorry. All right.
19 The Board would like to thank the parties for the
20 papers they prepared and the efforts that they put
21 into that. We think it was a very good effort and
22 hopefully will shorten the business we have to conduct
23 together this afternoon substantially. So again, we
24 do appreciate your efforts with respect to the various
25 important items you sent out in that report.

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1 Let's pick up first the question of the
2 lead party designation for one of the contentions
3 which is TC(I) for the Attorney General. The question
4 I guess there is who should be the lead counsel and/or
5 co-counsel as it's been presented to us. I think
6 we've heard something from all the parties that wish
7 to say something except I guess I would like to see
8 what NIRS's view is on this given that they are the
9 other potential party involved with these contentions.

10 MR. LOVEJOY: This is Lindsay Lovejoy
11 speaking for NIRS. Your Honor, what we hope to do is
12 work out a plan under which the Attorney General's
13 Office will be able to contribute its input on the
14 issue which is essentially relating to the contingency
15 factor, the decommission cost. We have that issue as
16 well and we hope to put together a plan and present it
17 to you under which we can each contribute --

18 COURT REPORTER: Excuse me. This is the
19 court reporter. I hate to interrupt, but Mr. Lovejoy,
20 you're going to have to speak up. I'm having trouble
21 picking you up.

22 MR. LOVEJOY: Okay. Thank you. We hope
23 to put together a plan together with the Attorney
24 General's Office under which we can each give the
25 input we think is necessary without adding to the

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1 Tribunal's burden. That may require a little detail,
2 but we hope to be able to present it to you within the
3 next few days if we can.

4 CHAIRMAN BOLLWERK: All right. I guess
5 that we talked about this yesterday in preparation for
6 this conference. The concern that we had was that
7 certainly what you're proposing would negate the
8 purpose for which we had a lead party which is someone
9 that we can look to as lead counsel on this particular
10 contention. Let me just raise one question with you.

11 Have you ever thought about -- Again we
12 designated NIRS as the lead party on this contention
13 because there was overlap with respect to one part of
14 the contention. Has there ever been any thought given
15 simply allowing the Attorney General to litigate this
16 whole contention on your behalf?

17 MR. LOVEJOY: Well, the contention as a
18 whole goes to the cost of decommission and I don't
19 understand the Attorney General wants to or has been
20 authorized to present that entire contention. If I
21 understand your question though, perhaps you're
22 focusing on the basis relating to the contingency
23 factor.

24 It's a little hard for us to visualize the
25 witness that we have on cost issues presenting

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1 evidence without adverting among other things to the
2 contingency factor. Frankly, that's part of the point
3 he needs to make and I gather part of the point the
4 Attorney General would like to make.

5 We would think that there will be just
6 inherently a slight amount of overlap that way. What
7 we hope to do is work out how the various written
8 presentation can be made to the Board so that we don't
9 increase your burden, in other words, to reach
10 agreement on how we can cooperate on doing that.

11 CHAIRMAN BOLLWERK: Right. I take it that
12 the Attorney General would anticipate having its own
13 witness. Is that correct?

14 MR. COPPIN: Mr. Chairman, this is Chris
15 Coppin. That is correct. The Attorney General would
16 anticipate having its own witness on a contingency
17 factor.

18 CHAIRMAN BOLLWERK: All right. I think
19 we've heard from the other parties on this, but let me
20 just go back to LES and the Staff and see if there's
21 anything further they want to add. LES.

22 MR. CURTISS: Well, I think we would look
23 forward to a filing in the next days with the
24 understanding that I heard counsel from NIRS.

25 COURT REPORTER: Who is speaking? This is

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1 the court reporter. Who is speaking?

2 MR. CURTISS: This is Jim Curtiss, I'm
3 sorry, from LES.

4 COURT REPORTER: Thank you.

5 MR. CURTISS: I think, Your Honor, that as
6 we have heard today we'll look forward to the filing
7 in the next several days of a proposed approach. Of
8 course, it would be our desire for the issue to the
9 extent that there is overlap and as reflected in the
10 Board's July 19th order that the proceeding go forward
11 as official as possible without duplication or overlap
12 that would require more time than is necessary to look
13 at a single contention. So with that caveat, we look
14 forward what Counsel Lovejoy has proposed to submit
15 after they consult with the AG and we'll defer comment
16 until that time.

17 CHAIRMAN BOLLWERK: All right. Anything
18 from the NRC Staff?

19 MS. CLARK: This is Lisa Clark speaking.
20 We have nothing further at this point. We also will
21 waive the written submission.

22 CHAIRMAN BOLLWERK: All right. Let me see
23 if NMED has anything they want to say on this point.

24 MR. CLARKE: Mr. Chairman, this is Clay
25 Clarke. No, the NMED has no issues with this.

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1 CHAIRMAN BOLLWERK: Can you be a little
2 more specific about when we might see the report, Mr.
3 Lovejoy or someone from the Attorney General's Office?

4 MR. LOVEJOY: Well, I think we ought to be
5 able to get that in say by next Monday.

6 CHAIRMAN BOLLWERK: All right. Does that
7 sound reasonable to the Attorney General's Office?

8 MR. COPPIN: This is Chris Coppin with the
9 Attorney General's Office. Yes, and I want to make
10 sure, Mr. Chairman, that you understand that we have
11 no intention of submitting any duplicate material or
12 have overlap. We're just concerned that if we have a
13 different viewpoint on this issue that it have a
14 chance to be expressed.

15 CHAIRMAN BOLLWERK: All right. One of the
16 issues we're going to talk about in a second is things
17 like depositions and interrogatories. Will you
18 address those as well in terms of how you'll make your
19 approach to that given this is one contention?

20 MR. COPPIN: This is Chris Coppin with the
21 Attorney General's Office. Yes, we certainly would
22 anticipate some proposal that would not duplicate
23 depositions or interrogatories.

24 CHAIRMAN BOLLWERK: Do you want to say
25 anything about that, Mr. Lovejoy?

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1 MR. LOVEJOY: Well, that would be our
2 hope. I think if there are two witnesses, there's
3 likely to be two depositions. However, other than
4 outside the sphere of witnesses, it's kind of been my
5 expectation that we would work something up under
6 which we cooperate in making the other presentations.

7 CHAIRMAN BOLLWERK: Okay. All right. At
8 this point, I guess let's go ahead and we'll wait and
9 hold any ruling on this until we see your report next
10 Monday. Again, I appreciate the efforts you're making
11 to work together and present the Board with something
12 you think is reasonable and workable and we'll
13 certainly take that into account as we look at the
14 presentation. Then I suspect we will see that, I
15 guess, by email by the close of business next Monday.

16 MR. LOVEJOY: August 9. Yes, sir.

17 CHAIRMAN BOLLWERK: All right. Thank you
18 very much. Anything else anyone has on that subject
19 at this point? All right. Let's move on then to the
20 subject of the NRC Staff's hearing file and the
21 suggestions that they had made. Do any of the parties
22 have any comments on the filing that the Staff made
23 with the Board regarding the hearing file? Did
24 someone enter in or just hit the wrong button? Okay.

25 MR. CURTISS: Your Honor, you want

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1 somebody and he's not here.

2 CHAIRMAN BOLLWERK: All right. Let me try
3 again. Does anybody have any comments on the Staff's
4 proposal in terms of the hearing file? Let me try
5 LES.

6 MR. CURTISS: Your Honor, this is Jim
7 Curtis for LES. We would support the approach that
8 they've outlined.

9 CHAIRMAN BOLLWERK: All right. Anything
10 with NIRS?

11 MR. LOVEJOY: We support what was filed.

12 CHAIRMAN BOLLWERK: All right. Anything
13 with the Attorney General please?

14 MR. COPPIN: This is Chris Coppin at the
15 Attorney General's Office. We support what was filed.

16 CHAIRMAN BOLLWERK: Okay, and anything
17 with the Environment Department?

18 MR. COPPIN: NMED supports it as well.

19 CHAIRMAN BOLLWERK: Okay. the only
20 comment I guess the Board had and it's a concern that
21 has come up actually in the context of some things
22 dealing with the possible high level waste case (PH)
23 is whenever a list is put forth that gives URLs,
24 Universal Resource Locators, that those can change.
25 Does the staff any proposal or any way they are going

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1 to deal keeping the list up to date in terms of items
2 that are not in ADAMS?

3 MS. CLARK: Your Honor, this is Lisa Clark
4 speaking. We also recognize this issue and to be
5 honest, we have not come up with a definitive answer
6 to how to deal with that yet. I've been discussions
7 with other people in the OGC office who are
8 specifically dealing with the new Part 2 Rules.

9 What I would propose is perhaps we can
10 give you a further report later on how to deal with
11 this issue. I don't think we've come up with any
12 definitive answer yet. One option may be to put in
13 some kind of place marker in the hearing file, but
14 again I don't know that it really solves the problem.

15 CHAIRMAN BOLLWERK: When you say a place
16 marker, what do you have in mind?

17 MS. CLARK: Well, that would be just
18 something showing what the URL was at this time. But
19 again unless we put the entire file in, that would not
20 solve the problem of what if even if the address
21 changes, the actual file changes in some way.

22 CHAIRMAN BOLLWERK: Okay. Let's just see
23 quickly if anyone else has any comments about that
24 question. And again, one way to approach this is to
25 make it self-enforcing which is a list is out there

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1 and if someone comes up against the URL they can't
2 use, they go back to the Staff and say it's no longer
3 any good. But let me see if anyone else -- LES
4 anything you want to say on the subject?

5 MR. CURTISS: Jim Curtiss. No, Your
6 Honor.

7 CHAIRMAN BOLLWERK: All right. Anything
8 from the Attorney General's Office?

9 MR. COPPIN: Chris Coppin. No, Your
10 Honor.

11 CHAIRMAN BOLLWERK: All right. Anything
12 NIRS wants to say?

13 MR. LOVEJOY: Well, just to endorse
14 frankly what you just said that there has to be a way
15 to get the Staff and ask them for them for the current
16 web address if the old one is obsolete.

17 CHAIRMAN BOLLWERK: All right. Finally,
18 is there anyone I missed? The Environment Department,
19 I'm sorry.

20 MR. CLARKE: Mr. Chairman, NMED has
21 nothing on that issue.

22 CHAIRMAN BOLLWERK: All right. How long
23 do you think, I don't know what your timeframe is, but
24 obviously the file is going to be up there in another
25 couple weeks. When would you like to file something

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1 and present us with something further on this issue?

2 MS. CLARK: I would say perhaps it could
3 wait, but I'm out of town right now. Could we file
4 something on the 19th at the time that we file?

5 CHAIRMAN BOLLWERK: Okay.

6 MS. CLARK: And just leave it open if
7 that's not workable then this may be something that we
8 just have to work with as we go along.

9 CHAIRMAN BOLLWERK: All right. What I
10 would invite, when the Staff makes their proposal on
11 the 19th if the other parties have problems with their
12 other suggestion, I would appreciate it if you could
13 file something within say five days after that. That
14 will let us know if there's an issue or not.

15 Again, I would tend to agree with the
16 Staff that this is a problem that needs to be worked
17 on and it may be as simple as has been suggested is
18 that if there's a Staff contact that they can call if
19 there's a problem. But let's see what the Staff comes
20 up with because I do think that we will need to keep
21 the list up-to-date and acceptable to the parties.
22 That's the whole purpose of this if we're not going to
23 have the actual documents in ADAMS that are acceptable
24 that way.

25 All right. Anything further on this

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1 subject anyone wants to present to the Board? All
2 right. Let's move on then. I'm sorry. Does someone
3 have something? No. All right. The question then of
4 the discover that you have set out in terms of any
5 limits on discovery in terms of interrogatories and
6 depositions, the parties have made -- I guess you
7 really haven't said anything.

8 Let me deal with depositions first. The
9 parties have said that they've agreed that depositions
10 should be limited to one per witness or panel of
11 witnesses which I take it to mean that you're only
12 planning on taking a witness's deposition once. What
13 you haven't said anything about is are there any
14 limitations on the number of depositions, for
15 instance, for contention.

16 MR. CURTISS: Your Honor, this is Jim
17 Curtiss. I'll speak to that and others can offer
18 their views as well. I think as we reflected on the
19 Board's guidance in the June 15th prehearing
20 conference and in your order we had discussed the
21 possibility of limiting depositions to three per
22 contentions.

23 I think it was the consensus of all of the
24 parties subject to any additional comments here that
25 the key for each of the parties was to be able to

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1 depose each witness or panel of witnesses once with
2 the understanding that with respect to panel of
3 witnesses it would be at the discretion of the part
4 being deposed to determine whether as a schedule or
5 matter, a panel could be brought together all at one
6 time or could be deposed separately in the event that
7 there are schedule difficulties at the time of the
8 deposition. But I think it was our sense that at that
9 one deposition per witness would insure that everybody
10 had the opportunity to depose the key witnesses that
11 will be offered by the respective parties.

12 CHAIRMAN BOLLWERK: I take it then that
13 you don't see a need at this point for the panel to
14 set a limit on the number of depositions.

15 MR. CURTISS: No.

16 CHAIRMAN BOLLWERK: Everyone can live with
17 the one per witness/panel.

18 MR. CURTISS: Your Honor, again this is
19 Jim Curtiss. I think that will come out to be roughly
20 the same if it were limited to three per contention.

21 CHAIRMAN BOLLWERK: Right.

22 MR. CURTISS: At this point, we have not
23 identified the witnesses. We'll endeavor to do that
24 later in August, but I think we're comfortable as the
25 Applicant with the limitation of one deposition per

1 witness or panel of witnesses.

2 CHAIRMAN BOLLWERK: All right. Let me
3 just make sure to see if anyone else has anything they
4 want to say on that subject. Anything from the
5 Attorney General's Office?

6 MR. COPPIN: This is Chris Coppin with the
7 Attorney General's Office. No, we have no further
8 comment.

9 CHAIRMAN BOLLWERK: All right. The
10 Environment Department?

11 MR. CLARKE: Mr. Chairman, no. One
12 deposition per witness is fine with the Environment
13 Department.

14 CHAIRMAN BOLLWERK: NIRS?

15 MR. LOVEJOY: The principle is fine with
16 us. As a matter of fact, we strongly support it. We
17 just need to make a footnote reference to the fact
18 that sometimes a witness shows up and is not prepared
19 to give his or her expert opinion or a witness is
20 deposed well in advance of some new information coming
21 out and there sometimes is a need to go back to a
22 witness and it's unfortunate and it's costly, but I
23 think we all need to recognize that a limit like what
24 we're talking about is subject to change for good
25 cause.

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1 CHAIRMAN BOLLWERK: All right. Anything
2 from the Staff?

3 MS. CLARK: This is Lisa Clark speaking.
4 Nothing further from the Staff.

5 CHAIRMAN BOLLWERK: All right. Then let
6 me just go back to LES and see if there is anything
7 further you want to say on the subject.

8 MR. CURTISS: Jim Curtiss. No, sir, Your
9 Honor.

10 CHAIRMAN BOLLWERK: All right. Obviously
11 anything we're doing here is always subject to the
12 parties coming and asking the Board for some other
13 authority or something that they work out among
14 themselves and I would highly encourage that. I have
15 to say again in the Private Fuels' first case with
16 respect to things like limits on the interrogatories
17 and limits on depositions which we set in that case in
18 the three or four years that we did discovery in that
19 case, we didn't have one instance when they came to
20 the Board and ask for any ruling in terms with at
21 least those limitations. So I think there is latitude
22 there for you all to work on what needs to be worked
23 on.

24 We also have a question about
25 interrogatories. There has been varying suggestions.

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1 One is a limit of ten per contention which would be
2 consistent with what we did in Private Fuel. There is
3 also a suggestion for certain contentions that it be
4 15 and for others 25 or 25 as the whole. Let me just
5 ask the Staff. The footnote that this was set forth
6 in didn't have anything from the Staff. Is there
7 anything you want to say on the subject?

8 MS. CLARK: This is Lisa Clark speaking.
9 No, we did not have a viewpoint on this.

10 CHAIRMAN BOLLWERK: All right. Anything
11 further any of the parties want to say on it at this
12 point that they've had further considerations or
13 thoughts that occurred?

14 MR. CURTISS: This is Jim Curtiss, Mr.
15 Chairman, from LES. As is reflected in Footnote
16 three, we proposed a limit of ten interrogatories per
17 contention and as you've noted, that's consistent with
18 the approach at PFS, we think given the issues that
19 have been raised in this case and in particular, the
20 overlap of some of the issues that a total of 100
21 interrogatories which would be the case if we had 10
22 per contention and maybe more depending upon the
23 outcome of the consolidated issue. It's an ample
24 number particularly when one considers that we only
25 have two weeks under 2.706(b)(2) to answer the

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1 interrogatories.

2 I would also offer that as Mr. Lovejoy has
3 suggested in the event that there is a reason, a need,
4 for additional interrogatories to be propounded there
5 is always the option to go back to the Board. But we
6 think it's an undue burden for the Board at least at
7 the outset to set a limit of 25 interrogatories per
8 contention with the result that we would face the
9 possibility of 250 interrogatories to be answered in
10 two weeks.

11 CHAIRMAN BOLLWERK: All right. Now one
12 thing I should mention in terms of interrogatory
13 limits. Obviously we consider these to be single
14 interrogatory, not an interrogatory with 50 subparts.
15 That's again there's interpretation and thus subject
16 to interpretation, but obviously it's a matter of a
17 problem for both the parties and the Board something
18 we may need to address. I'm hoping that will not be
19 the case.

20 COURT REPORTER: Excuse me, Your Honor.
21 This is the court reporter interrupting. You are
22 beginning to drop out a number of words.

23 CHAIRMAN BOLLWERK: Okay. I will move
24 closer then. I was just expressing the concern that
25 an interrogatory that has many parts is not

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1 necessarily within the scope. Is someone hitting
2 their phone because we're getting some background
3 noise? All right. I'd prefer to put out a joint --
4 with all these matters which will be probably be after
5 we see what we get from the NIRS and the attorneys
6 next Monday. Probably if this is something that we
7 rule on next week, does that give the parties enough
8 time? Does anybody have a problem with that?

9 MR. CURTISS: Your Honor, Jim Curtiss from
10 LES. You intend would be to rule on the proposed
11 discovery plan including the limit on interrogatories
12 that we have not been able to reach an agreement upon
13 sometime next week.

14 CHAIRMAN BOLLWERK: By the middle of next
15 week or the end of next week at the latest certainly.

16 MR. CURTISS: I think it would be our
17 intent here based upon the consensus that we've
18 reached save for the one issue of interrogatories to
19 assume that the Board would view that consensus as
20 acceptable and we would proceed in accordance with
21 what's been outlined in July 29th submittal.

22 CHAIRMAN BOLLWERK: All right. I think
23 everyone can assume that you're going to get at ten
24 interrogatories since there seems to be general
25 agreement that that's the floor. The question is

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1 what's the ceiling here.

2 MR. CURTISS: Your Honor, Jim Curtiss
3 again. The one additional point that I would point
4 out in the schedule is that at Mr. Lovejoy's
5 suggestion we have decided to begin the depositions
6 earlier in the process than is otherwise normally the
7 case. You will see in the attachment that the
8 depositions actually begin prior to the responses to
9 the interrogatories being submitted.

10 It's our view that the depositions were
11 also a vehicle for the parties to propound of the
12 witnesses in an unlimited way. We're not proposing
13 that the depositions other than the number per witness
14 be limited in any other way and we would submit that
15 the Board should take that into account in ruling on
16 the number of interrogatories. There is a
17 corresponding vehicle through the depositions to get
18 questions propounded and responded to.

19 CHAIRMAN BOLLWERK: All right. Anybody
20 want to say anything or is there a response to that
21 point?

22 MR. COPPIN: Mr. Chairman, this is Chris
23 Coppin with the New Mexico Attorney General's Office.
24 Just I want to make a quick point that when the Board
25 considers limits on interrogatories and you refer to

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1 past cases where interrogatories are limited, we would
2 request that you consider trying to compare the
3 complexity of the cases and the numbers of contentions
4 in the other cases and the number of parties to make
5 some adjustment. Just because in the past maybe
6 there's been a limit of ten doesn't mean that fits
7 every case.

8 Having the depositions I guess my
9 experience goes both ways. Having a party deposed can
10 be helpful, but also you want to lay the groundwork
11 through interrogatories to prepare to depose somebody
12 too. So it's helpful to have the depositions start
13 early, but necessarily a cure for not having
14 sufficient information through interrogatories prior
15 to that. So we would ask the Board to consider a
16 higher limit than that proposed by LES. Our figures,
17 we're used to 25 interrogatories under the Federal
18 rule. Thank you.

19 CHAIRMAN BOLLWERK: Let me just ask one
20 clarifying question. The schedule that you point out
21 regarding interrogatories that's September 9th. Is
22 there any agreement among the parties that they
23 wouldn't submit any interrogatories before that or is
24 that simply the last date that they will submit the
25 interrogatories?

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1 MR. CURTISS: Your Honor, Jim Curtiss here
2 for LES. I think our view is that that's the date by
3 which all interrogatories would be submitted because
4 under the Regulations, we have to respond to those
5 interrogatories in 14 days.

6 CHAIRMAN BOLLWERK: Right.

7 MR. CURTISS: And that's reflected here in
8 the schedule when responses are due pursuant 2.706.
9 So we think it's important that all interrogatories be
10 identified whatever the limit is by September 9th so
11 that we can respond to those and we expect that the
12 applicant will get the vast majority of them. We can
13 respond to them as provided forth in the Regulations.

14 CHAIRMAN BOLLWERK: Okay. So what I'm
15 hearing again this is a proffered date as it were, the
16 only date by which -- They can't be filed before then.
17 That's what I thought, but I wanted to make sure.

18 MR. CURTISS: Well, they can be filed
19 before then, but not later than then.

20 CHAIRMAN BOLLWERK: Not later than then.
21 Correct. Okay. It sounds to me that if we can make
22 a ruling next week on this subject that it's going to
23 give you all plenty of time to deal with the
24 limitation whatever it is that we put on the
25 interrogatories. Let's move then to the question of

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1 -- Let me just stop. Any other points on the
2 interrogatories anyone wants to make?

3 MR. LOVEJOY: Your Honor, this is Lindsay
4 Lovejoy from NIRS. I appreciate Mr. Curtiss's remark
5 about the depositions starting earlier and I think
6 that's a good decision. But I just think in setting
7 the number of interrogatories the Board might keep in
8 mind that the interrogatory is addressed to the party
9 as a whole and get the information available to it.

10 Whereas the questions to ask to the
11 witness are not likely to give you anything more than
12 what that particular witness knows or has at his
13 fingertips right in the deposition. I really don't
14 think the kinds of things we go for by interrogatory
15 are similar to the kind of questions you ask
16 particularly an expert during deposition. So
17 interrogatories are going to be used here to narrow
18 the issues and I think it's going to be helpful if we
19 have enough of them. Thank you.

20 CHAIRMAN BOLLWERK: All right. Let me
21 just find out then if the Staff or anyone else wants
22 to say anything on this subject.

23 MS. CLARK: This is Lisa Clark. Nothing
24 from the Staff.

25 CHAIRMAN BOLLWERK: All right. Anything

1 further, Mr. Curtiss?

2 MR. CURTISS: No, sir, Your Honor.

3 CHAIRMAN BOLLWERK: Or NMED?

4 MR. CLARKE: Mr. Chairman, nothing
5 further.

6 CHAIRMAN BOLLWERK: All right. The one
7 other item that I didn't see anything about in here
8 and maybe it's unnecessary given the sorts of
9 documents that are going to be put out by the Staff
10 and also what you all perhaps are going to be
11 exchanging informally, anything about document
12 production that the Board needs to be concerned about
13 or talk with you all about? Let me start with LES
14 first.

15 MR. CURTISS: Jim Curtiss from LES. I
16 don't think so at this time, Your Honor. There may be
17 issues as we go forward, but I think based upon the
18 consensus that's been reached, we don't see any issues
19 now.

20 CHAIRMAN BOLLWERK: All right. Anything
21 from the Staff's perspective?

22 MS. CLARK: Nothing, Your Honor. This is
23 Lisa Clark.

24 CHAIRMAN BOLLWERK: All right. Anything
25 from the Attorney General's perspective?

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1 MR. COPPIN: This is Chris Coppin. No,
2 Mr. Chairman.

3 CHAIRMAN BOLLWERK: All right. Let's see.
4 NMED?

5 MR. CLARKE: Not at this time, Mr.
6 Chairman.

7 CHAIRMAN BOLLWERK: All right. Then NIRS?

8 MR. LOVEJOY: No problems yet.

9 CHAIRMAN BOLLWERK: All right. One thing
10 I should mention obviously. The rules provide for 30
11 days for responses on document production requests.
12 That's a fairly significant time given what we're
13 looking at with some of the rules such as that
14 interrogatories are only 14 days. So bear that in
15 mind in terms of the discovery schedule that there is
16 a considerable period to allow for production request
17 responses.

18 One thing I should also mention. I think
19 this may be apparent, but if it's not, let me make it
20 clear. What the Board anticipates is that when
21 discovery closes, discovery closes. That doesn't
22 mean you need to get your requests in before
23 discovery. That means that you need to get the
24 responses in before discovery closes. So any timing,
25 and I think you've already taken that into account in

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1 your schedule, but again when discovery closes, that
2 means that everything is over, not that we still have
3 a few remaining requests that need to be responded to,
4 absent some problem with a motion to compel or
5 something like that that hasn't been resolved. But we
6 obviously do our best to resolve any matters that come
7 up like that as promptly as possible.

8 One other thing I should mention, and I
9 think I alluded to before, whatever limitations that
10 we set on interrogatories or otherwise, again if the
11 parties believe they can work something out that
12 serves their purposes and reach some kind of
13 accommodation with each other in terms of we set a
14 limit, for instance, of 10 or 15 and that parties
15 needs a 16th or 17th interrogatory and they can work
16 that out with their opposing counsel, that's not
17 necessarily something you need to come back to the
18 Board with.

19 COURT REPORTER: Your Honor, this is the
20 court reporter interrupting again. You are beginning
21 to break up. It sounds like you have a voice
22 activated microphone or something that's clipping your
23 first couple of words off when you start a sentence.

24 CHAIRMAN BOLLWERK: Okay, I will repeat
25 that again. In terms of limits on interrogatories, if

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1 there is something that the parties need to work out
2 and can do so, they should attempt to do. Having the
3 one limitation here that does need to come back to the
4 Board that the parties can't necessarily agree to
5 extend among themselves is the deadline for discovery.
6 That is something that even if the parties were to
7 agree that there should be a week extension for
8 instance, they would need to come to the Board and get
9 our authorization to do that. Any questions about
10 that or comments?

11 MR. COPPIN: Mr. Chairman, this is Chris
12 Coppin with New Mexico Attorney General's Office. We,
13 in discussion among the parties, assume, well I think
14 we've stated, this discovery schedule would not apply
15 to any contentions that have been referred to the
16 Commission that may come back. We would have to
17 readjust the discovery schedule for that.

18 CHAIRMAN BOLLWERK: Correct. My
19 supposition if we did admit a contention, but referred
20 the matter to the Commission, that contention at this
21 point is not in the case and if the Commission would
22 decide to do something else and send it back, then we
23 would obviously have to readjust the schedule to take
24 that into account. If that's what you're referring
25 to, that would be my understanding as well.

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1 MR. COPPIN: Yes, thank you, Mr. Chairman.

2 CHAIRMAN BOLLWERK: All right. Let me see
3 if at this point there's anything any of the other
4 parties want to discuss with the Board with respect to
5 any other discover matters that we may not have
6 touched on. Let me start with LES.

7 MR. CURTISS: No, sir, Your Honor.

8 CHAIRMAN BOLLWERK: All right. Anything
9 from the Attorney General's perspective?

10 MR. COPPIN: This is Chris Coppin. No,
11 sir.

12 CHAIRMAN BOLLWERK: All right. Anything
13 for NIRS?

14 MR. LOVEJOY: Lindsay Lovejoy. Nothing
15 more right now.

16 CHAIRMAN BOLLWERK: All right. The
17 Environment Department.

18 MR. CLARKE: Nothing further.

19 CHAIRMAN BOLLWERK: All right. The NRC
20 Staff?

21 MS. CLARK: This is Lisa Clark. Nothing
22 further.

23 CHAIRMAN BOLLWERK: All right. Let's then
24 move on to the schedule in general. I think overall
25 we didn't have a problem with the way it was laid out

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1 and again the schedule as we understand it basically
2 covers the environmental contentions as you specified
3 them based on the Staff's -- coming out. I believe
4 it's the end of the September. In terms of setting a
5 hearing schedule, the one point to contemplate adding
6 to that would be a period, and the Commission's orders
7 speak to this, we feel it would be useful and
8 necessary to have some pre -- after the prefiled -- is
9 filed.

10 MR. CURTISS: Your Honor, I didn't hear
11 what you said. This is Jim Curtiss.

12 CHAIRMAN BOLLWERK: Let me try again. The
13 Board would contemplate a period, we can talk about
14 how long, for the filing of rebuttal after the
15 prefiled directive. Just so you know, someone is
16 apparently breathing into their phone and I think
17 that's --

18 COURT REPORTER: Your Honor, someone is
19 breathing into their phone and you're beginning to
20 clip out again.

21 CHAIRMAN BOLLWERK: Okay.

22 MR. CURTISS: If everybody could put it on
23 mute, perhaps we could hear you.

24 CHAIRMAN BOLLWERK: Okay. Is someone near
25 a cell phone? Maybe that's it.

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1 MS. CLARK: I'm using a cell phone. This
2 is Lisa Clark. I don't know if that's the problem.

3 COURT REPORTER: Maybe that's the problem.

4 CHAIRMAN BOLLWERK: Let me go back to the
5 point again. I'll try one more time. What the Board
6 is contemplating is adding a period for the parties
7 after they've filed their direct prefiled testimony to
8 file a round of prefiled rebuttal testimony based on
9 the other parties' direct testimony. The question
10 would be how long would the parties contemplate they
11 would need to prepare that. The Board is thinking of
12 something in the neighborhood of 20 days, but let me
13 go around and see if anyone has any thoughts about
14 that. Let see what LES has to say first.

15 MR. CURTISS: I think if that's the desire
16 of the Board to have rebuttal prefilings that 20 days
17 would be sufficient time, more than sufficient.

18 CHAIRMAN BOLLWERK: Okay. I'm still
19 getting someone that's a little bit too close to the
20 mouthpiece. So be aware of that if you think you
21 might be doing it. What about the NRC Staff?

22 MS. CLARK: This is Lisa Clark. Twenty
23 days seems a sufficient time.

24 CHAIRMAN BOLLWERK: All right. Let me try
25 the Attorney General.

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1 MR. COPPIN: Chris Coppin. Twenty days
2 seems sufficient for us.

3 CHAIRMAN BOLLWERK: What about the
4 Environment?

5 MR. CLARKE: Twenty days would be
6 sufficient.

7 CHAIRMAN BOLLWERK: What about NIRS?

8 MR. LOVEJOY: Twenty days is sufficient
9 time. I guess I have a question on how that schedule
10 ties in the commencement of the hearing itself.

11 CHAIRMAN BOLLWERK: That's obviously going
12 to move it back 20 days.

13 MR. LOVEJOY: It is. Okay. I see.

14 CHAIRMAN BOLLWERK: We need to readjust
15 the schedule. That's something the Board can do and
16 then have the parties give us feedback if that's not
17 going to work. But my intention would be to adjust
18 the schedule by 20 days. I should also mention that
19 at the time that cross examination plans come in, we
20 would add to that, as an additional point for the
21 parities to file, would be what I'll describe briefly
22 as a bullet outline of the case from their perspective
23 for the main points that they are going to be trying
24 to make with their witnesses and also the particular
25 relief or determinations that they would want the

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1 Board to make.

2 Again this is an outline so it would be
3 very short, a sort of synopsis of your case, a short
4 one, and from your perspective to be filed at the same
5 time that you file your cross examination plan. Cross
6 examination plans by the way are generally filed with
7 the Board, not with other parties for obvious reasons.

8 These however would be publicly available
9 documents that would be provided to the other parties
10 assuming they didn't have anything propriety or other
11 confidential information in it. Let me find out if
12 anyone has any comments on that proposal as well.
13 Let's start with LES.

14 MR. CURTISS: Yes, Jim Curtiss here. If
15 that summary of the key points of the testimony is
16 done at the same time as the filing of the cross exam
17 plans it would not result in any further delay.

18 CHAIRMAN BOLLWERK: That's correct.

19 MR. CURTISS: We would not object to that.

20 CHAIRMAN BOLLWERK: All right. Anything
21 from the Staff?

22 MS. CLARK: Oh, I'm sorry. No comments
23 from the Staff.

24 CHAIRMAN BOLLWERK: All right.

25 MS. CLARK: This is Lisa Clark.

1 CHAIRMAN BOLLWERK: Anything from the
2 Attorney General's Office?

3 MR. COPPIN: This is Chris Coppin. No
4 further comments.

5 CHAIRMAN BOLLWERK: NIRS?

6 MR. LOVEJOY: Lindsay Lovejoy. I think
7 that's acceptable.

8 CHAIRMAN BOLLWERK: All right. And the
9 Environment Department?

10 MR. CLARKE: Nothing further, Mr.
11 Chairman.

12 CHAIRMAN BOLLWERK: Okay. When we issue
13 something on the overall schedule, then we'll try to
14 be a little more specific about what we're talking
15 about in terms of the outline, but the general concept
16 is again a set of bullets or very brief points that
17 would outline the main points in your case as they are
18 going to be presented to the witnesses and also what
19 determinations or rulings you would want to see the
20 Board make on your behalf given what you want to
21 present.

22 JUDGE ABRAMSON: Like what they would put
23 on a view graph.

24 CHAIRMAN BOLLWERK: Right. Judge Abramson
25 says, "Think about a view graph." That's sort of what

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1 we have in mind. All right. Again we will have to
2 make some adjustments to the schedule. I don't know
3 to what degree that parties have actually cleared
4 calendars or I expect you had made sure those dates
5 were available before you proposed them. We may have
6 to go back and look at that again in terms of any
7 changes to the schedule.

8 Again we would contemplate that these
9 hearings, unless the parties propose to do something
10 different, be in the New Mexico area. Whether in
11 Hobbs or Eunice, that would be something we would have
12 to determine, but again we would have it out in that
13 area.

14 JUDGE ABRAMSON: Provided they --

15 CHAIRMAN BOLLWERK: Right. Judge Abramson
16 says we may need snowplows in February. I'm not sure
17 how snowy it gets that far south, but I guess we'll
18 find out.

19 MR. CURTISS: Your Honor, this is Jim
20 Curtiss. In looking at the schedule that we, as the
21 parties, have proposed and taking your comment about
22 the prefiling of rebuttal testimony 20 days later, it
23 would look to me like we would make it through
24 December 30, 2004 which is when the direct testimony
25 would be filed on these four environmental contentions

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1 as well as any amended or late filed contentions and
2 then what you would propose I understand would be a 20
3 day period of time from December 30th to have prefiled
4 rebuttal submittals.

5 CHAIRMAN BOLLWERK: Right.

6 MR. CURTISS: And so the dates that would
7 be delayed or pushed out by 20 days would be the
8 January 10th date for the cross exam plans and the
9 January 7th date for the beginning of the evidentiary
10 hearing.

11 CHAIRMAN BOLLWERK: Right. I'm assuming
12 that you all couldn't do the cross examination. You
13 would need the additional time for the cross
14 examination plan. That's my assumption. If you tell
15 me that's not the case, we can do something different.

16 MR. CURTISS: Well, an alternative would
17 be to look at something of the order of 14 days which
18 I think is the timeframe that was provided for in the
19 MOX proceeding for rebuttal prefiled. We obviously
20 would like to move this along consistent with the
21 Commission's schedule, its January order. But
22 understanding here that we only have four
23 environmental contentions at this stage in the
24 process, perhaps the Board would consider something on
25 the order of 14 days that would allow us to begin the

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1 hearing in January.

2 CHAIRMAN BOLLWERK: All right. Anything
3 the parties want to say about a 14 day schedule?
4 Staff?

5 MS. CLARK: The staff has no objection to
6 14 days.

7 CHAIRMAN BOLLWERK: All right. The
8 Attorney General?

9 MR. COPPIN: Mr. Chairman, this is Chris
10 Coppin. I think our preference would just be to
11 extend out the schedule that we agreed to by the
12 additional 20 days.

13 CHAIRMAN BOLLWERK: All right. The
14 Environment Department?

15 MR. CLARKE: I think we're going to concur
16 with the AGs. I think 20 days is still sufficient.
17 We would prefer just to push everything back by 20
18 days.

19 CHAIRMAN BOLLWERK: Right. And NIRS?

20 MR. LOVEJOY: We actually would prefer to
21 have 20 days to prepare the filed rebuttal testimony.

22 CHAIRMAN BOLLWERK: By the way, I would
23 just like to clear this. Anytime I'm talking about
24 days, I'm talking about calendar days not working
25 days. All right?

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1 MR. LOVEJOY: Yes.

2 CHAIRMAN BOLLWERK: All right. We'll take
3 that into account then in setting the schedule. It
4 sounds like LES and the Staff support it and the
5 others just prefer something longer in terms of 20
6 versus 14.

7 (Discussion off microphone.)

8 CHAIRMAN BOLLWERK: Right.

9 MS. CLARK: Well, this is Lisa Clark. The
10 staff doesn't have a preference.

11 CHAIRMAN BOLLWERK: Okay.

12 MS. CLARK: Either 14 or 20 days.

13 CHAIRMAN BOLLWERK: Right. It's quite
14 possible given the prefile rebuttal that we would
15 actually be able to still meet the decision base that
16 sets out here even if we have to set the hearing.
17 That's something I can't promise at this point, but I
18 think that brings additional information to our
19 attention. It would help us move the decision point
20 forward perhaps rather than having to slip in an
21 additional 20 days. But that's something we can take
22 into account as well.

23 All right. Let me move to a different
24 subject then. Again, once we set this schedule and
25 send it out, if the way we send it causes a problem

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1 with someone in terms of the schedule they have in
2 terms of conflicts, you need to let us know that
3 immediately as well as the other parties so that if we
4 need to have a conference or ask you all to sit down
5 and talk about it among yourselves and come up with an
6 alternative that would be very important obviously
7 once the schedule comes out.

8 There's some discussion about settlement.
9 I take it at this point that it's not necessarily, you
10 all feel the time for that although the possibility
11 exists. There was also some information that was put
12 on the table about a mediator. Does anyone want to
13 address that any further? Let me start with LES.

14 MR. CURTISS: Your Honor, Jim Curtiss
15 here. We do have a meeting planned for August 16th in
16 New Mexico where I think it would be our intent among
17 other things to explore amongst the parties whether
18 there's a basis given the new information that might
19 be available at that time for settling any of the
20 issues, in particular the environmental contentions
21 that are going to go forward in this first phase. I
22 think it's our collective sense, but I'll defer to
23 others, that we would report back to you after those
24 discussions on August 16th.

25 CHAIRMAN BOLLWERK: All right. If anyone

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1 else wants to say something on that subject, now would
2 be the time. Let me just open up the line as it were
3 for anyone that wants to say anything on that subject
4 on what Mr. Curtiss just indicated.

5 MS. CLARK: This is Lisa Clark. I did
6 contact a potential mediator. However they are not
7 available to begin until September in any event. So
8 we wouldn't be able to begin settlement discussions
9 for a certain period of time anyway.

10 CHAIRMAN BOLLWERK: September of 2004,
11 correct? That's not right. That would have to be.

12 MS. CLARK: Yes.

13 CHAIRMAN BOLLWERK: Right. All right.
14 The mediator might be a good possibility if you still
15 will need someone to help you with settlement and the
16 mediator is not going to work, we can afford a
17 settlement judge here. There are several people that
18 have substantial experience in that area including one
19 of our judges here that actually did some
20 environmental mediation at one point. So the
21 possibility exists that he might, if he's available,
22 help you all out with this case, but again, that's
23 something we would need to hear back from you all. If
24 that's useful to you, let us know and we'll pursue it.

25 Let me raise then, if there's nothing else

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1 on settlement, and again I would encourage you to the
2 degree that it's possible to resolve your disputes
3 among yourselves. It generally has been my experience
4 that works out better for everyone involved than
5 having the Board come out with some kind of a ruling
6 that makes no one happy and that often happens. So
7 again, I would encourage you to consider settlement
8 seriously and if that will work for some of the
9 issues, certainly you should move forward with that.

10 Let me raise a question about the
11 mandatory hearing. I think the Staff and the NFC sent
12 out some general guidelines. I take it that in terms
13 of the timing of such a hearing you would anticipate
14 that that would come as a part of them -- Let me ask
15 you the question. Would that come as part of the
16 hearing on contested issues relating to the safety
17 side of the contention? Mr. Curtiss, what do you have
18 to say about this?

19 MR. CURTISS: Yes, this is Jim Curtiss for
20 LES. I think it was our view as we talked about this
21 that we did not have a particular time in mind for
22 this and might defer to the Board's view about the
23 timing of this. I would offer that one of the
24 considerations that we outlined here and subject to
25 the comments of the NRC Staff is that the Board would

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1 take into account the record that was made with
2 respect to the contested contentions as part of this
3 record here for the mandatory hearing which would
4 suggest a process later in the proceeding. But I
5 think on balance when the Board is prepared to proceed
6 and would like us to proceed with this part of the
7 mandatory hearing, we would prepared to do that at the
8 Board's discretion.

9 CHAIRMAN BOLLWERK: All right. Anything
10 the Staff wants to say on that subject?

11 MS. CLARK: This is Lisa Clark. It just
12 seems to make sense for efficiency that if there is a
13 hearing on the safety evaluation that since if we do
14 have all our witnesses in one location that it would
15 be a logical time for the Board to conduct any
16 questioning that they have for the mandatory hearing
17 filings.

18 CHAIRMAN BOLLWERK: And again, early on,
19 I recognize the process but you all have a sense of,
20 and given that you're going to be making presentations
21 to us and the Board would be getting back to you in
22 terms of what we would or would not need to talk with
23 you all about. Anyone have a sense however of how
24 long we're talking about in a hearing like this?

25 MR. CURTISS: This is Jim Curtiss again,

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1 Your Honor. I would say on the timing of this, the
2 one we would need to provide for is that the Staff
3 documents including the SEIS and the SER, currently
4 scheduled, I believe, for June 15, 2005 would need to
5 be available. So we wouldn't anticipate proceeding
6 any prior to that. In terms of the length of time
7 that we would allow for this, I think we propose a day
8 or two, but that would depend upon the Board's
9 questions and the desire for the Board for witnesses
10 after they've reviewed the summary that would be
11 submitted by LES and the Staff.

12 One final comment, we would hope it could
13 be done in a timeframe where it would not be critical
14 path for other aspects of this proceeding including
15 the safety part of the proceeding that will be
16 conducted on the safety contentions when the SER is
17 out. So subject to those caveats, I think no earlier
18 than the Staff document are out and at that point, we
19 can perhaps discuss further with the Board the timing
20 of this, but I wouldn't expect this to take more than
21 a day or two.

22 CHAIRMAN BOLLWERK: All right. Anything
23 the Staff wants to say on that subject?

24 MS. CLARK: No, Your Honor. I was
25 thinking maybe to allow at most a week of hearing

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1 time.

2 CHAIRMAN BOLLWERK: Okay. Again, this is
3 obviously as I mentioned somewhat I would say
4 premature, but early in the process for us to be
5 looking at this. But I think it's something we need
6 to keep in mind as Counsel for LES indicated so that
7 we can bear in mind we need to get this done in a
8 timely manner, however we choose to proceed with it.

9 All right. At this point, let me just ask
10 the other Board members if they have anything they
11 want to discuss with the parties. I can tell you that
12 they are both shaking their heads which is an
13 indication of no.

14 Let me then go around to the different
15 parties and see if there's anything they want to raise
16 with the Board with respect to the schedule or the
17 report that was put in or any of the matters that
18 we've talked about today or any other matters at this
19 point that we need to discuss. Let me go to Counsel
20 for LES first.

21 MR. CURTISS: Jim Curtiss here. The only
22 thing I would say, Your Honor, is we appreciate the
23 cooperation of all the parties in getting us to this
24 point. I think we have an agreement here that
25 reflects the hard work and the discussions that have

1 taken place since your order of July 19th and I think
2 this is a good start for us.

3 CHAIRMAN BOLLWERK: All right. Let me
4 turn to Counsel for the Attorney General.

5 MR. COPPIN: This is Chris Coppin. No
6 further comments.

7 CHAIRMAN BOLLWERK: All right. Counsel
8 for the Environment Department?

9 MR. CLARKE: Nothing further at this time,
10 Mr. Chairman.

11 CHAIRMAN BOLLWERK: All right. Counsel
12 for NIRS?

13 MR. LOVEJOY: Nothing further at this
14 time. Thank you.

15 CHAIRMAN BOLLWERK: All right. And
16 Counsel for the NRC Staff.

17 MS. CLARK: No further issues for us.

18 CHAIRMAN BOLLWERK: All right. Well, I
19 would also indicate from the Board's perspective as I
20 said in the beginning that I thought you all did
21 yokeman's service in putting the report together as
22 well the schedule. I think we're going to tweak it
23 here a little bit in terms of the prefile rebuttal,
24 but overall, I think you've come very close to the
25 mark in terms of something we can adopt and put forth

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1 as a schedule for at least this part of the
2 proceeding.

3 Obviously, we still have to be concerned
4 about the technical contention as agreed needs to be
5 dealt with as well as the mandatory hearings. But I
6 think we've made a good start here in terms of the
7 environmental contention. If there is nothing else
8 from anyone at this point, then we will stand
9 adjourned. I thank you for making yourselves
10 available and good afternoon.

11 (Chorus of thank yous.)

12 COURT REPORTER: Mr. Lovejoy, are you
13 still on?

14 MR. LOVEJOY: Yes, sir.

15 COURT REPORTER: What does NIRS stand for?

16 MR. LOVEJOY: Nuclear Information and
17 Resource Service.

18 COURT REPORTER: Nuclear Information and
19 Resource Service. Thank you very much.

20 MR. LOVEJOY: Thank you.

21 COURT REPORTER: Off the record.

22 (Whereupon, the above-entitled matter was
23 concluded at 1:51 p.m.)

24

25

CERTIFICATE

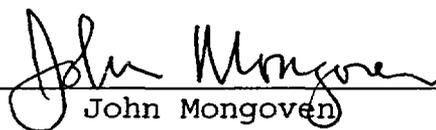
This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: Louisiana Energy Service, LP

Docket Number: 70-3103-ML

Location: teleconference

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.



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