

RAS 12756

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: American Centrifuge Plant
Pre-Hearing Conference

Docket Number: 70-7004-ML

DOCKETED
USNRC

December 20, 2006 (11:01am)

Location: (telephone conference)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Date: Wednesday, December 6, 2006

Work Order No.: NRC-1368

Pages 1-38

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TEMPLATE = SELV 032

SELV-02

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

2 JUDGE MCDADE: Is the applicant?

3 MR. SILVERMAN: Yes, Your Honor.

4 JUDGE MCDADE: Okay. Pre-hearing
5 conference will come to order in the matter of
6 USEC Inc., ASLBP No. 05-838-01. There is before
7 the board a motion by USEC, as I understand it
8 the motion basically has two parts. One part has
9 to do with the submission of pre-filed testimony
10 by the Applicant. The other has to do with the
11 tentative schedule that the board established or
12 listed in its order of November 17th. Let me take
13 them up surinam first having to do with the
14 submission of pre-filed testimony, and let me
15 raise the question and I'll put the question
16 first to the Applicant and then to the Staff. In
17 a recent matter involving Grand Gulf what we
18 proposed and what we did was the following, that
19 we had the Staff, who we view as primarily
20 responsible for moving this forward, file
21 testimony.

22 We directed that the Applicant would
23 have the opportunity to submit any corrections or
24 supplements that they felt was necessary and I
25 believe it was either seven or ten days later.

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1 What we wanted to avoid is having two submissions
2 that basically would include much, if not all, of
3 the same material and then we would have to, you
4 know, given the fact that there's going to be
5 relatively tight time constraints at that point,
6 go through figure out where they agreed and where
7 they disagreed. And what we wanted to do is just
8 simply have a submission from the Applicant that
9 only indicated those areas where either they were
10 in disagreement with the Staff or where they felt
11 supplementation was necessary so that we didn't
12 get two parallel submissions. From the
13 standpoint of the Applicant is that a system that
14 would work int his particular case?

15 MR. SILVERMAN: Yes, Your Honor, this
16 Don Silverman with Morgan Lewis on behalf of the
17 Applicant. We are -- we have become aware of the
18 Grand Gulf matter and the way in which that was
19 handled and I think if we can work towards an
20 expeditious schedule which is a separate issue we
21 would be comfortable with that kind of an
22 approach. We think there's a way to do this
23 which would allow for no significant delay in the
24 schedule. We would be pleased to be able to file
25 testimony in response to the Staff to the extent

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1 necessary to augment or correct.

2 We would like to be able, as we
3 believe was the case in Grand Gulf, to cooperate
4 with the Staff, work with them as much as
5 possible in the drafting or in the review of
6 their testimony, hopefully be able to comment on
7 it at some point in time before it's submitted.
8 That would help us a great deal.

9 JUDGE MCDADE: Well what we indicated
10 to the Staff and to the Applicant in that case
11 was that although we viewed this as an
12 adjudicative hearing we didn't do it as an
13 adversary hearing at this point, given the fact
14 that there are no interveners in the matter and
15 that if we saw no reason why the applicant should
16 see the Staff submission for the first time after
17 it was submitted to the board. We urged them to
18 work together in compiling the testimony and to
19 ensure to the degree possible that the Applicant
20 was aware of it at the earliest possible moment,
21 so that in a relatively short period of time
22 thereafter the Applicant would be in a position
23 to submit either a corrective -- in their view
24 corrective, the Staff might view it not as
25 corrective, but any place where they took

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1 exception to something that the Staff said or
2 alternatively where they felt what the Staff
3 said, although was accurate, required in the
4 Applicant's view some supplementation. And I
5 think that's where we would be leaning regardless
6 of where we went, you know, with regard to the
7 ultimate schedule. I mean to have a relatively
8 short period of time, you know, to get input from
9 the Applicant as to how long they thought would
10 be required, you know, to probably tentatively
11 set it at something about seven days, but
12 understanding depending on the complexity of it,
13 it might be possible for the Applicant to do it
14 quicker. It might be possible that they would
15 need some additional time depending on the nature
16 of, you know, how successful they were in
17 coordinating and how much additional testimony
18 they believed would be necessary.

19 MR. SILVERMAN: We are comfortable
20 with that, Your Honor.

21 JUDGE MCDADE: Okay. One thing I
22 probably should do just to make sure the record
23 is clear for the court reporter, there are a
24 number of people here representing both the
25 Applicant and the Staff, some of whom may have

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1 speaking roles as we move ahead and some may not,
2 so if I could just ask those representing the
3 Staff just to state their name and position so
4 that the court reporter can note that for the
5 record.

6 MS. BUPP: I'm Margaret BUMP and I'm
7 counsel for the NRC Staff. I'm joined at the
8 counsel table by Julia Olivier, who's the project
9 manager, and Brian Smith who is the branch chief
10 overseeing this step of the review.

11 JUDGE MCDADE: Okay. Thank you. And
12 for USEC?

13 MR. SILVERMAN: I'm Don Silverman, as
14 I said with Morgan Lewis, counsel to United
15 States Enrichment Corporation. On my right is
16 Dennis Scott who is an associate, just in general
17 counsel USEC in house. I have Bruce McPherson
18 who is with my law firm and Peter Minor who is
19 also with USEC.

20 JUDGE MCDADE: Okay. Thank you. The
21 next aspect has to do with the tentative schedule
22 that we had established. There is a motion by
23 USEC to modify that schedule to basically look to
24 a date of mid-March as opposed to May for the
25 conclusion of this matter. Is there anything

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1 further you would like to say on this before we
2 start asking some questions, Mr. Silverman?

3 MR. SILVERMAN: Yes, there is one more
4 thing we -- since we had presumed that the board
5 might rule - propose in rule that we would file
6 responsive testimony to the Staff. We've looked
7 at the schedule that we proposed and we would add
8 a suggested date, at least at this point in time,
9 for a tentative date for USEC to file that
10 proposed testimony, which we think would enable
11 us to continue to meet this schedule. The
12 schedule we propose would call for the submission
13 of the Staff testimony by January 26th and we
14 would propose, at least today without knowing
15 what the board questions and issues are, that the
16 -- that USEC be required to file the pre-file
17 testimony by February 6th. That would be 11 days
18 and what it would do, it would enable the board
19 to have the Applicant's testimony a full week
20 before the hearing.

21 JUDGE MCDADE: Okay. Anything
22 further?

23 MR. SILVERMAN: Not at this time.

24 JUDGE MCDADE: Okay. Based on the
25 motion a couple of questions I have. One of

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1 which, you indicated in the motion that there is
2 a contract between the Department of Energy and
3 USEC, indicating the construction is to begin no
4 later than June of 2007. What happens as of June
5 if construction is not begun in June, what
6 happens next under this contract?

7 MR. SILVERMAN: I don't have the
8 specific details, but I do know that, and I may
9 ask Mr. Scott to weigh in here, but there are
10 milestones and penalties associated with failure
11 to meet the milestone, and I believe there is a
12 process which could, at least theoretically,
13 result in termination of the agreement between
14 the Department of Energy and USEC. I'll let Mr.
15 Scott.

16 MR. SCOTT: Yes, Your Honor. The
17 agreement has a process, it has certain
18 milestones that we have to meet. It also has a
19 process for if we don't meet that what happens.
20 We will also look to materiality on this. And
21 ultimately, the Department a number of revenues
22 it can take including up to terminating the
23 agreement, terminating our ability to complete
24 this project. Obviously, you know, the tone of
25 that and record remedies as well, depending upon

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1 what the Department feels is necessary to protect
2 the government's interest. I think the important
3 thing to note is, you know, we certainly would
4 like very much so to be able to honor that
5 commitment to the milestone.

6 JUDGE MCDADE: When was this contact
7 entered into?

8 MR. SCOTT: June of 2002.

9 JUDGE MCDADE: Okay. SO this was
10 entered into more than two years before USEC
11 submitted it's application.

12 MR. SCOTT: Yes, sir.

13 JUDGE MCDADE: The application was in
14 August of '04.

15 MR. SCOTT: Yes, it was actually
16 entered into shortly after those documents, we
17 had access to the technology under initial
18 review, essentially it provided that.

19 JUDGE MCDADE: And then for that final
20 period of time, an almost three year period of
21 time from when the application was submitted
22 until this contract term of June of '07, it would
23 be totally outside of USEC's control first of all
24 as to how long it took the Staff to prepare the
25 safety evaluation report and the environmental

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1 impact statement and then how long it would take
2 the board to review it, adjudicate it, whether or
3 not there were any interveners and how long that
4 litigation would take if interveners were
5 allowed, and then how long it would take the
6 commission to review the board's decision.

7 MR. SCOTT: Certainly there's elements
8 of that are beyond our control, as you know in
9 any application process the quality of the
10 application, how quickly we respond to requests
11 for additional information are certainly within
12 the control of the Applicant so in terms of
13 timing on all of this, certainly a lot of it is
14 outside of our control and, obviously if the
15 board decided it needed additional time it's
16 beyond our control so there are elements that
17 are. So I guess that in the absence of all that
18 certainly that would be an argument that we could
19 make with the Department hopefully favorable on
20 that, but we always like to reach the milestones
21 if at all possible.

22 JUDGE MCDADE: Okay. Since you
23 submitted your application back in August of '04,
24 and more specifically, since the board issued its
25 tentative scheduling order, have you heard

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1 anything from the Department of Energy indicating
2 that the June '07 date was of consequence, that
3 if the application were not approved until June
4 as opposed to March that the Department of Energy
5 would take a different position to the USEC under
6 the contract.

7 MR. SCOTT: We have -- no, Your Honor.
8 We have not had that.

9 ADMIN. JUDGE LAM: And so should I
10 assume the contract would provide a lot of
11 protection for you if it is delayed due to
12 elements out of your control?

13 MR. SCOTT: Yes, sir.

14 JUDGE MCDADE: Are all the elements
15 that are within your control in place in order to
16 start construction in 2007?

17 MR. SCOTT: Yes, Your Honor. Yes,
18 Your Honor. We could begin, I mean, you know,
19 certainly there's a certain period of time to
20 start with respect to your contract or that we
21 could begin construction activity shortly after -

22 -

23 JUDGE MCDADE: What is the current
24 status as far as the application itself? I mean
25 is it anticipated that there are going to be

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1 supplements with regard to the technology
2 submitted that are going to require further
3 review by the Staff and supplemental safety
4 evaluation reports prepared by the Staff?

5 MR. SILVERMAN: No, to the best of our
6 knowledge, Your Honor, the -- after due process
7 is done the SER has been issued, the EIS has
8 been issued in final form and the last step in
9 the process is the mandatory hearing process.

10 JUDGE MCDADE: My question though was
11 not on what's happened so far, it was just from
12 the Applicant's standpoint of what's going on
13 with the Applicant and whether or not you
14 anticipate submitting to the NRC Staff for review
15 any supplements, any changes that are going to
16 require a supplemental safety evaluation report,
17 or in your judgement, would require a
18 supplemental safety evaluation report?

19 MR. MINOR: This is Peter Minor, at
20 this time, Your Honor, no we don't. Certainly as
21 the design continues to be finalized and we work
22 with our architect engineer, certainly things
23 will evolve, but we don't expect that we will
24 have major changes that the Staff would have to
25 review at this time.

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1 JUDGE MCDADE: And when you're talking
2 about construction that could arguably begin in
3 the summer of 2007 are you talking about
4 construction that I mean, you know, preparation
5 of the staging area, preparation of a parking lot
6 or are you talking about construction of the
7 actual building itself and rehab of the existing
8 buildings and construction of new buildings to
9 accommodate the technology?

10 MR. MINOR: This is Peter Minor again.
11 Certainly there are a number of examples that
12 would be representative things that we might want
13 to do immediately. For example, mobilization of
14 construction resources, installation of office
15 trailers, underground utilities and
16 communications, security fencing. As you know
17 there existing facilities there, some of which
18 have equipment left over from the prior
19 Department of Energy program. Some of that
20 equipment is required to be removed. Some of it
21 is extensive. We're required to take out piping
22 valves, electrical conduit, and the like. That
23 would -- that eats up a lot of time at the front
24 of the work schedule. We also have on -

25 JUDGE MCDADE: Is that construction

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1 that could not be started? For example, putting
2 in fencing, utilities, prior to the time that
3 Nuclear Regulatory Commission signs off on the
4 license?

5 MR. MINOR: Well we've not looked at
6 that aggressively with the Staff, whether that's
7 an activity that we might pursue.

8 MR. SILVERMAN: Your Honor, Don
9 Silverman, I think that a number of the
10 activities that this company is planning and
11 hoping to be able to commence shortly after
12 issuing of the license do constitute construction
13 and other regulations, and would require the
14 license to be issued.

15 JUDGE MCDADE: And what are those?

16 MR. SILVERMAN: I think that the
17 underground utility work. I think construction
18 mobilization -- some of the construction
19 mobilization effort, which includes the fencing,
20 gates, trailers, bear with me a minute. There is
21 some work on seed and withdraw facilities
22 including demolition activities and installation
23 of new concrete which would -- the hope is to be
24 able to commence fairly promptly. Those are some
25 examples, HVAC and fire protection work.

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1 JUDGE MCDADE: I'm sorry. I didn't
2 hear that last thing.

3 MR. SILVERMAN: HVAC and fire
4 protection related refurbishment work.

5 JUDGE MCDADE: And all of these
6 activities are planning to be started June '07?

7 MR. SILVERMAN: It is -- the company -
8 - there are a host of activities and, again
9 please correct me if I'm wrong, but the goal is
10 to begin many or most of those activities as soon
11 as possible after issuance of the license.

12 ADMIN. JUDGE WARDWELL: Which of those
13 activities, specifically that you anticipate
14 starting June of '07, do you feel it's needed --
15 that there would be a need for the license to be
16 approved in order to start those on June of '07.

17 MR. SILVERMAN: Right.

18 ADMIN. JUDGE WARDWELL: Not
19 generalities, because we're talking a total of
20 five to six weeks difference, and I'm having
21 trouble understanding why this particular license
22 is in your critical path to start in June of '07.
23 It would seem to me that whatever you would need
24 to get in place by the first of April would -- in
25 order to start construction in June of '07 you

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1 would need to get stuff in place such that the
2 five to six weeks wouldn't make much difference
3 with regards to your construction schedule and
4 certainly in relationship to those things that
5 aren't associated with licenses.

6 So elaborate, if you would, a little
7 bit more on the critical path that you see. What
8 are those components that make up the critical
9 path? And then a little more specificity, if you
10 would, on I'll let you turn it around and say
11 what are those items that you could start in June
12 without a license? If you could elaborate a
13 little bit more on that I'd appreciate it.

14 MS. BUPP: Your Honor, if I could
15 perhaps explain a little bit of what the Staff
16 would allow without a license.

17 JUDGE MCDADE: If you could to the
18 court reporter to state your name, please.

19 MS. BUPP: This is Margaret Bupp from
20 the Staff. The activities prior to licensing are
21 very limited. We would only allow site
22 characterization and environmental monitoring or
23 site preservation work, and we would allow
24 offsite manufacturing to begin of components, but
25 nothing onsite until the license is issued. So

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1 almost everything that Mr. Silverman has named
2 on his list would not be allowed to begin without
3 a license. There's no to question as to whether
4 they could put up additional fencing, that that
5 might be site preservation, but almost everything
6 on his list would not be allowed with out a
7 license.

8 ADMIN. JUDGE WARDWELL: Thank you.
9 And the current schedule allows for that license
10 to be issued before June of '07, correct?

11 MR. SILVERMAN: The current board
12 schedule?

13 ADMIN. JUDGE WARDWELL: Yes.

14 MR. SILVERMAN: It's -- it is
15 possible, yes. We're just concerned about any
16 delay, Your Honor and we're concerned about sort
17 of the margin issue as well, which is that if it
18 doesn't give us a lot of time if there are
19 additional issues, concerns, which within the
20 hearing process last minute glitches, even in the
21 Staff approval of the license, so cutting it
22 close is one of our concerns.

23 ADMIN. JUDGE LAM: Excuse me. Mr.
24 Silverman, since you've mentioned about potential
25 other delays, I'd like to pick up on that and ask

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1 the Staff a question. In the Applicant's motion
2 for an accelerated schedule, in Footnote 1 the
3 Applicant indicated the Staff does not oppose the
4 accelerated schedule, is that correct?

5 MS. BUPP: That's correct, counsel for
6 the Applicant contacted the Staff to make sure
7 that the schedule that they were proposing was
8 something that we could support. While the
9 board's proposed schedule was also something we
10 could support and we have no objection from the
11 standpoint of the Staff to the board's proposed
12 schedule. If the board were to adopt the
13 schedule the Staff could meet all of the
14 deadlines in the proposed schedule.

15 ADMIN. JUDGE LAM: My question to you
16 then, Ms. Bupp, is this, without knowing what the
17 issues and the questions about the board would
18 identify, on what basis do you make that
19 commitment?

20 MS. BUPP: We made that commitment
21 based on the schedule is the -- time period
22 between milestones and the schedule is very
23 similar to the time periods in the milestones
24 between the LEF mandatory hearing schedule and so
25 the Staff can make that commitment knowing the

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1 work that was needed for the LEF mandatory
2 hearing and based on the statements by the board
3 that you had anticipated things being similar to
4 the LEF mandatory hearing.

5 ADMIN. JUDGE LAM: So you extrapolate
6 from that hearing to this board's inquiry as to
7 the scope and the quantity and the quality of the
8 questions we may ask?

9 MS. BUPP: Yes, I mean that's the only
10 basis that we had.

11 ADMIN. JUDGE WARDWELL: Is there any
12 difference between the LEF hearing and this
13 hearing?

14 MS. BUPP: You know it's a different
15 board, it is a slightly different facility, but
16 they're both uranium enrichment facilities and so
17 I think that they would be more similar than if
18 you were comparing it to an EFP or a new reactor
19 licensing, that they're similar facilities.

20 ADMIN. JUDGE WARDWELL: Was that a
21 contested hearing?

22 MS. BUPP: That was a contested
23 hearing, but I'm talking about the milestones for
24 the mandatory hearing portion.

25 ADMIN. JUDGE WARDWELL: Do the boards

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1 gain any insights into some of the issues as part
2 of the contested portion that saves time during
3 the preparation and execution of the mandatory
4 hearing in general?

5 MS. BUPP: I can't necessarily speak
6 for the board, but I think that, you know, some
7 of the issues that were addressed at the
8 mandatory hearing were also addressed during the
9 contested portion of the hearing so I would
10 imagine that they did gain some background in
11 having those questions answered.

12 ADMIN. JUDGE WARDWELL: And did they
13 gain some background in the overall site
14 conditions, what's being proposed, the type of
15 construction, the design, and those types of
16 things in the process of going through some of
17 the contested issues?

18 MS. BUPP: Yes, there was a long
19 period of time discussing the application before
20 the mandatory hearing began.

21 ADMIN. JUDGE WARDWELL: Do we have
22 that here in this particular case that -

23 MS. BUPP: Well it's an uncontested
24 hearing so we have not had the same period of
25 time.

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1 ADMIN. JUDGE WARDWELL: Back to the
2 critical path. What types of activities do you
3 think, besides the advantage of having additional
4 lead time and fall back time if you will, but
5 what specific activities are being held up by the
6 license in regards to your critical path and
7 planning for and then implementing construction
8 in June of '07? Because this isn't stopping as
9 the current schedule as the construction of '07,
10 I'm asking now are there activities, in fact, you
11 are delaying pending this license that would in
12 the process of scheduling the construction,
13 interfere with that to start in June of '07?

14 MR. SILVERMAN: If I understand your
15 question correctly, Your Honor, yes. I'm not the
16 expert on exactly what the critical path
17 construction process is, but as I think was
18 mentioned earlier, there are a -- most of the
19 construction -- most of the activities that I
20 mentioned could not begin until we have the
21 license issued.

22 ADMIN. JUDGE WARDWELL: Okay. That
23 wasn't my question.

24 MR. SILVERMAN: Okay. Sorry.

25 ADMIN. JUDGE WARDWELL: My question is

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1 are there any pre-activities that the
2 construction depends upon being completed before
3 you can start that this license would interfere
4 with, and if so, specifically what are those?

5 MR. SILVERMAN: I'm not aware of any
6 such activity.

7 ADMIN. JUDGE WARDWELL: So in fact
8 this schedule -- this hearing isn't on the
9 critical path, it could theoretically be
10 completed the very last day of May for
11 construction to start the first of June.

12 MR. SILVERMAN: Well it may very well
13 be and I can't represent to you that it is,
14 obviously there are -- there may very well be
15 pre-preparation activities that can be done now
16 regardless of the schedule for the hearing
17 process, but again, there are clearly
18 construction activities that can't commence until
19 we have the license.

20 ADMIN. JUDGE WARDWELL: Okay. We
21 understand that. Thank you.

22 JUDGE MCDADE: In the contract that
23 you have with the Department of Energy is there -
24 - you indicated construction needs to begin under
25 that contract or should begin under that contract

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1 in June of '07. Does it indicate what is meant
2 by construction beginning, the level of
3 construction, and also does it have a date by
4 which the construction has to be completed?

5 MR. SCOTT: Your Honor, Dennis Scott
6 speaking. The agreement has a series of
7 milestones, one of which is beginning
8 construction and there's not really any further
9 defining that or there certainly would be. I'm
10 sorry. I said there are additional milestones
11 drawn just to begin at construction, including
12 when we reach a one million feet capacity and
13 when we can get three and a half million feet
14 capacity.

15 JUDGE MCDADE: Okay. Can you give us
16 a feeling of what your current plans are for this
17 summer and fall in regards to those construction
18 activities. Were they just the ones you listed
19 or were those the ones you were hoping to start
20 in June?

21 MR. SCOTT: Well, I guess, for
22 clarification, those are ones that we can if we
23 had started earlier than June on the initial
24 schedule of completion that we had of getting
25 into March. They are all activities that,

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1 frankly, are waiting for the license and will
2 begin as quickly thereafter as we can schedule
3 once we have the license.

4 So I don't want to mislead you to
5 think that all of these things are beginning in
6 June, in fact, for planning purposes, we actually
7 had planned on original dates that -- conditions
8 that begin in a 30 month schedule that begins in
9 March, and so had laid out a schedule based upon
10 that original commission schedule. So with that
11 we think the current plan would've had things
12 occur in April/May as well as June. I don't
13 know if that answers your question.

14 JUDGE MCDADE: I just -- I guess I
15 wanted to get a feeling for how much more
16 construction do you plan on doing throughout the
17 summer and say for the first year. What's your
18 master plan?

19 MR. MINOR: This is Peter Minor. Well
20 certainly the first year is the critical aspect.
21 We would begin all of the heavy construction of
22 the new facilities. The feed and withdraw
23 facility to clearly critical path as well as
24 construction the facilities where we'll be
25 assembling and testing the assembled center

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1 fusion machines. So in order to ramp up to build
2 the number of center fuses that have to populate
3 the facility we have to start very early on that
4 work so the heavy construction of the new
5 facility would commence sometime in '07, as well
6 as the testing and assembly of machines.

7 ADMIN. JUDGE WARDWELL: You were
8 mentioning your design, you alluded to the fact
9 that that's still ongoing. What's the status of
10 that and what's the status of your construction
11 contracts? Are they in place, ready to go? When
12 do you anticipate them having to be in place and
13 that type of thing for both the design and the
14 construction?

15 MR. SCOTT: Dennis Scott, Your Honor,
16 we have a contract with Thor, our engineering
17 procurement company. They're already working on
18 that doing design work. They're already doing
19 the, I guess the prep work, if you will, getting
20 ready for construction. We have in terms of the
21 status of the design, I guess it depends on which
22 systems there are and where you're at on certain
23 things, but they are continuing to work on that,
24 continuing to work as good as they can without
25 having a license. They're also, like I said, we

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1 have a contract with Thor to do all of this.
2 They're set to go and we have, you know, with
3 construction activity.

4 ADMIN. JUDGE WARDWELL: But you say
5 they're already started in regards to the design.
6 They're doing design also for you.

7 MR. SCOTT: Yes, Your Honor.

8 ADMIN. JUDGE WARDWELL: And are they
9 the -- are they construction managers or are they
10 going to actually be having the shovels in their
11 hands or subcontracting most of it out?

12 MR. SCOTT: My understanding of it is
13 that their construction manager will be self
14 performing some of the work so it should be a
15 combination of him subcontracting out as well as
16 self performing some of the work.

17 ADMIN. JUDGE WARDWELL: When do you
18 anticipate subcontracting out these first of
19 phase of things that are to be done, whether
20 they're done in April or June or whatever?

21 MR. SCOTT: I don't have that
22 information. I know they already have
23 subcontracted out the different systems and
24 things, but I'm not sure exactly where they were
25 with respect to the construction and

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1 subcontracting the construction. They have
2 certain --

3 ADMIN. JUDGE WARDWELL: So the
4 subcontracts they have out now are mostly for
5 the design?

6 MR. SCOTT: Yes, Your Honor, I believe
7 so. I mean, you know, again what they're doing
8 right now is all of the design work since they
9 can't do construction. I'm not of the status of
10 where they are of getting the actual
11 subcontractors in place or where they are as far
12 as coming out and putting the shovel in the dirt,
13 but their plan and their schedule to being is
14 when we have the license.

15 ADMIN. JUDGE WARDWELL: Thank you.

16 JUDGE MCDADE: We have no further
17 questions. Is there anything else from the
18 Applicant's standpoint you'd like us to take into
19 consideration or present to us on the motion?

20 MR. SILVERMAN: Bear with me just a
21 second, Your Honor. I guess the only other thing
22 I'd say, Your Honor, and it is reflected in the
23 motion, is that we also believe that the kind of
24 schedule that we've established is consistent
25 with the commissions expectations as reflected in

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1 a number of pronouncements that they've made.
2 We've reflected that in our -- in our motion to
3 you and we'd ask you to take that into
4 consideration as well in making your decision.

5 JUDGE MCDADE: Okay. Thank you.
6 Anything further from the staff?

7 MS. BUPP: This is somewhat related to
8 the schedule, but not exactly on point. We've
9 been in contact with your law clerk regarding
10 training for the members of the board and the
11 clerks for the site visit out to the site
12 facility, and it looks we with the support
13 training the first week of January so if the
14 board could take a look at their schedules to
15 determine a date. It should only take a few
16 hours. It's about half a day at the most to have
17 a training, an hour, one hour, that would be
18 convenient to the board on and our meeting to
19 discuss follow up matters.

20 JUDGE MCDADE: Let me ask a follow-up
21 question on that and the issue is not, you know,
22 when we can set aside an hour, the issue has to
23 do with the necessary security clearances prior
24 to the time that the training is undertaken and
25 the question is how much lead time do we need to

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1 give you in order to schedule that training? In
2 other words, if by day X all of the security
3 clearances are -- have been received, day X plus
4 what can we have the schedule? You know how much
5 lead time do you all need?

6 MS. BUPP: That's a question I
7 couldn't answer.

8 MR. SCOTT: Your Honor, I think we
9 can immediately support your schedule.

10 JUDGE MCDADE: Well does immediately
11 mean the next day?

12 MR. SCOTT: That's correct. Assuming
13 the personnel are available.

14 JUDGE MCDADE: Okay. Because, again,
15 from our standpoint if all of the security
16 clearances were available we could say, "Okay,
17 this afternoon looks good. Tomorrow looks good.
18 The next day looks good."

19 But the problem is at this point we
20 can't do that and, you know, we will notify you
21 as soon as we have been notified with regard to
22 all of the security clearances and would then
23 like to schedule the training as soon as
24 practicable thereafter, but just, you know, don't
25 want to put you all in a bind, you know, where

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1 you have somebody just sort of sitting and
2 hovering and waiting, you know, and at the same
3 period of time -- at a certain point in time we
4 need to have a cutoff of either postponing the
5 site visit, you know, and so just trying to get
6 some input from you all as to what -- when the go
7 no go date on that should be.

8 And I don't necessarily need that
9 right now, but if you all could be thinking about
10 it, we would like to go forward on the current
11 schedule, having that training, you know, you've
12 indicated in the first week of January and, if at
13 all possible, we would like to do that and I just
14 want to know if we need to postpone it, you know,
15 how much lead time do you all need before it gets
16 to be, you know, a significant material
17 inconvenience for both the Staff and the
18 Applicant.

19 MR. SCOTT: Your Honor, Dennis Scott.
20 Just a couple of things to mention. First off,
21 that is actually relatively small portion of it
22 is required for clearance. So we have a lot
23 being uncleared and still in some stages control
24 it. The second thing is our security department
25 I talked to them about that issue. Certainly

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1 it's not optimal, but as long as the have
2 confirmation of their clearance prior to the
3 tour, they can then make arraignments for the
4 briefing the day of the tour, if that's
5 necessary.

6 We'll certainly do whatever's
7 necessary to support the board's visit and to
8 support their schedule on it, but it is -- it's
9 approximately a half hour to an hour in terms
10 the application and the training on the specific
11 technology and so that is not a circumstance
12 worth --

13 JUDGE MCDADE: Okay. Thank you.

14 ADMIN. JUDGE WARDWELL: Could you
15 explain -- without saying too much, could you
16 explain a little more in depth what is -- what
17 portions of the site tour would require this
18 clearance?

19 MR. MINOR: As Mr. Scott said there
20 just a few areas right now as we have the lead
21 Cascade that's in the stages of being deployed
22 there are certain gauges and things that may be
23 secret restricted data that we would have to
24 shroud and clearly the control room is a secret
25 restricted area and an open classified storage

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1 area and so you won't have access to that if you
2 didn't' have a clearance. Principally everything
3 else you'd be able to access.

4 ADMIN. JUDGE WARDWELL: So the rest --
5 so the Cascade themselves would be non --
6 wouldn't require the clearance?

7 MR. MINOR: As I said, we may have to
8 -- we would have to make arraignments to ensure
9 that the appropriate information or data or
10 equipment was shrouded, but I think we can
11 accommodate a tour into the Cascade area.

12 JUDGE MCDADE: You used the word
13 secret. Are you making a differentiation between
14 a Q clearance and an L clearance?

15 MR. MINOR: The major components of
16 the center fuse are secret restrictive data that
17 require a Q clearance.

18 ADMIN. JUDGE LAM: Can the two be
19 separated into two parts, one for Q and one for L
20 just in case the clearance issue is not
21 resolved?

22 MR. MINOR: Yes. We believe we can.

23 ADMIN. JUDGE WARDWELL: But that would
24 limit what the L clearance could see because if
25 you were going to vibrocate it then you wouldn't

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1 shroud certain things and that may eliminate a
2 whole room of being able to observe by the non
3 secure people. If you can guess who that person
4 is.

5 MR. SCOTT: Your Honor, Dennis Scott.
6 I think, you know, certainly we can do whatever
7 is necessary to accommodate the tour and it would
8 be beneficial to have at some point in time -- we
9 did an uncleared tour and so if you wanted to
10 see, for example, what was shrouded. So again
11 we'll work with whatever is convenient for all
12 based on what your schedule, but you can see a
13 lot of it uncleared, it may require shrouding in
14 the back.

15 ADMIN. JUDGE WARDWELL: I'll give you
16 a little better feeling from what I think I would
17 like to see. I would like to see the physical
18 layout of the Cascades and what it all looks
19 like.

20 What's the magnitude or the size that
21 we're dealing with? Are these center fuses the
22 same that you will be using for the full sized
23 plant or close to them or are they a completely
24 different size? But even if they aren't the same
25 size I want -- I would like to see the layout.

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1 Individual gauges and things like that are
2 probably too far in depth for me to understand
3 anyhow and the control room, while it's usually
4 of interest, that's not near as critical. The
5 only thing that I really thought that I would
6 hate to miss would be just to see the inside, the
7 physical layout of the Cascades and what the
8 magnitude of that is.

9 MR. SCOTT: Yes, Your Honor, you
10 could actually see that and obviously can't be
11 inside the Cascades themselves.

12 ADMIN. JUDGE WARDWELL: No, I know
13 that.

14 MR. SCOTT: But you would see the --
15 you would see the size of it, you would see the
16 facility, you would be able to see the layout
17 very clearly, but certain portions, certain gates
18 would, as I was saying, would have to be shrouded
19 again, the control room showing data.

20 ADMIN. JUDGE WARDWELL: So you could
21 see all of the Cascades as --

22 MR. SCOTT: Yes, Your Honor.

23 ADMIN. JUDGE WARDWELL: As a series of
24 parallel you'd be able to see that layout?

25 MR. SCOTT: Yes, Your Honor.

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1 MR. MINOR: I don't think we think
2 there's a logistical problem that we couldn't
3 overcome, even if we're dividing up tours,
4 leading separate tours in any way that would
5 cause any need for delay in your -- in your
6 visit.

7 ADMIN. JUDGE WARDWELL: I just want to
8 make sure --

9 MR. MINOR: Or accommodate it any
10 schedule that you want.

11 ADMIN. JUDGE WARDWELL: -- in the
12 process, if you are going to separate it then
13 that you don't say oh, gee we haven't hidden this
14 one little piece and therefore you can't even go
15 into this building. Then it's just not a point
16 of use.

17 MR. SCOTT: No, Your Honor.

18 ADMIN. JUDGE WARDWELL: It's better
19 just to wait and do it some other time.

20 MR. SCOTT: Dennis Scott. Your
21 Honor, we have, in fact, Your Honor done tours
22 before in the past of facilities. But we'll
23 certainly make whatever, you know, whatever we
24 need to accommodate your schedule.

25 JUDGE MCDADE: Okay. There being

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1 nothing further at this point. The motion is
2 under advisement and we will rule on it as
3 quickly as we can. Thank you.

4 (Whereupon the above mentioned matter
5 went off the record at 1:41 p.m.)

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CERTIFICATE

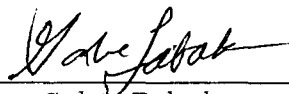
This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: American Centrifuge Plant
Pre-Hearing Conference

Docket Number: 70-7004-ML

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.



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